

Message

From: Macy, Jim [jim.macy@nebraska.gov]
Sent: 10/20/2017 4:43:29 PM
To: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]
Subject: Process changes permitting

Public notice and other Nebraska specific rule changes needed

Told current statutory process if updated may not be approved by region/hq specific to Public notice rule

Also need detail of Tuesday meeting where/when

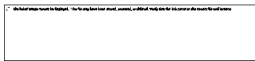
Sent from my iPad

Delivery Report

From: Microsoft Outlook [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MICROSOFTEXCHANGE329E71EC88AE4615BBC36AB6CE41109EF7088051]
Sent: 10/20/2017 4:05:32 PM
To: jim.macey@nebraska.gov
Subject: Undeliverable: MS4 Issue
Attachments: MS4 Issue

Your message

To: jim.macey@nebraska.gov
Subject: MS4 Issue
Sent: 10/20/2017 4:05:30 PM



Your message to jim.macey@nebraska.gov couldn't be delivered.

When Office 365 tried to send your message, the receiving email server outside Office 365 reported an error.

greenwalt.sarah	Office 365	jim.macey
Sender		Action Required
		Policy violation or system error

How to Fix It

Check the "Reported Error" from the "Error Details" section shown below for more information about the problem. The error might tell you what went wrong and how to fix it. For example, if the error states that the message was blocked due to a potential virus or because the message was too large, try sending the message again without attachments.

If you're not able to fix the problem, it's likely that only the recipient's email admin can fix it. Contact the recipient by some other means (by phone, for example) and ask them to tell their email admin about the problem. Give them the "Reported Error" from the "Error Details" section below.

Was this helpful? [Send feedback to Microsoft.](#)

More Info for Email Admins

Status code: 550 5.0.350

The error reported by the receiving server wasn't specific enough to determine the exact nature of the problem. These errors often indicate the message violates a security or policy setting configured on the recipient's email servers.

If the sender is unable to fix the problem by modifying their message, then it's likely a problem that only the recipient's email admin can fix. Try the following:

Check the error for information about the problem - The "Reported Error" returned by the external email server can be found in the "Error Details" section below. This error might tell you what went wrong and provide clues for how to fix it. For example, if the error states the message was rejected due a Sender Policy Framework (SPF) issue, then you'll have to work with your domain registrar to correctly configure your domain's SPF records.

Check the error for information about where the problem is happening - For example, look for a domain name like contoso.com. A domain name in the error might suggest who is responsible for the error. It could be the recipient's email server, or it could be a third-party service that your organization or the recipient's organization is using to process or filter email messages.

If you can't fix the problem, contact the responsible party's email admin - Give them the error code and error message from this non-delivery report (NDR) to help them troubleshoot the issue. For security or policy violation issues, it might be sufficient for them to just add your sending IP addresses or domain to their allowed senders list.

It's likely that only the recipient's email admin can fix the problem. Unfortunately, it's unlikely Office 365 Support will be able to help with these kinds of externally reported errors.

Original Message Details

Created Date: 10/20/2017 4:05:30 PM
Sender Address: greenwalt.sarah@epa.gov
Recipient Address: jim.macey@nebraska.gov
Subject: MS4 Issue

Error Details

Reported error: 550 5.0.350 Remote server returned an error -> 550 #5.1.0 Address rejected.
DSN generated by: DM2PR09MB0763.namprd09.prod.outlook.com
Remote server: mx02.ne.gov

Message Hops

HOP	TIME (UTC)	FROM	TO	WITH
1	10/20/2017 4:05:30 PM	DM2PR09MB0761.namprd09.prod.outlook.com	DM2PR09MB0761.namprd09.prod.outlook.com	mapi
2	10/20/2017 4:05:30 PM	DM2PR09MB0761.namprd09.prod.outlook.com	DM2PR09MB0763.namprd09.prod.outlook.com	Microsoft SMTP Service cipher=TLS_ECDHE_F

Original Message Headers

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed; d=usepa.onmicrosoft.com;

s=selector1-epa.gov;
h=From:Date:Subject:Message-ID:Content-Type:MIME-Version;
bh=s/DqLGgHu9mJ/yegkzcoJHnu91b259Hugh9W4E07v7A=;

b=jsTlaPmeH2M5xDe78+1Lp/OxmaLDd8jd5e5abgl389OqyYhbqSdP/KuSBuEJ0u5Knw/2q9+iIXnUC7h6hb9iJJA
j8M/RUtvJwk2itHqyNTco2pYMONy+LCWjrB8nWmqne+CSzT5Qcmzhlwbt8stY0x8LfGEG8EyxzasL9wnXd5TM=
Received: from DM2PR09MB0761.namprd09.prod.outlook.com (10.161.145.146) by
DM2PR09MB0763.namprd09.prod.outlook.com (10.161.145.148) with Microsoft SMTP
Server (version=TLS1_2, cipher=TLS_ECDHE_RSA_WITH_AES_256_CBC_SHA384_P256) id
15.20.77.7; Fri, 20 Oct 2017 16:05:30 +0000
Received: from DM2PR09MB0761.namprd09.prod.outlook.com
([fe80::ald7:6c8c:7971:9726]) by DM2PR09MB0761.namprd09.prod.outlook.com
([fe80::ald7:6c8c:7971:9726%18]) with mapi id 15.20.0077.022; Fri, 20 Oct
2017 16:05:30 +0000
From: "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>
To: "jim.macey@nebraska.gov" <jim.macey@nebraska.gov>
Subject: MS4 Issue
Thread-Topic: MS4 Issue
Thread-Index: AQHTSblA0jPJTy0B+0yAh61xnNqAsA==
Date: Fri, 20 Oct 2017 16:05:30 +0000
Message-ID: <48DE5E84-AA84-40DE-82BB-50951DD71D5A@epa.gov>
Accept-Language: en-US
Content-Language: en-US
X-MS-Has-Attach:
X-MS-TNEF-Correlator:
authentication-results: spf=none (sender IP is)
smtp.mailfrom=greenwalt.sarah@epa.gov;
x-originating-ip: [2600:1014:b106:20df:f020:ade2:f070:1450]
x-ms-publictraffictype: Email
x-microsoft-exchange-diagnostics:
1;DM2PR09MB0763;6:7qWoxTfO6l7p3ErLMSv6IpE4Vw48LQMocfRGEUvf0OdJ1LvU+g/JYE0JJW5uUXEkcJd28Jy
tkXclPh7l9P+rASusq0Up9w6eNX7KPeQ/Ilptn5hUK6Owh0aJNeMfrn48OVCIAmga0cyOLoE8cJFO+t4JDzfd4o3K
L3hc4XTqV/ritmpUwkZNCFYOT/eYTAuyGHwan0NNtrMSOcElEB7/KEREMAF0LLUEwyFE4zBR8liQLz84luGpEDX6
6trV8QvThaESyxJ/7HEGZIBw7MvpXPLdeWMfJji+Rj0oVDmSmB5ERrBNCtztgsJvzR0iOU+HFF++HFPNSM56WfSru
0qMw==;5:CBnPKnjKadM8qTreQgj1CLSem/GllcOkM+v7cq270+rgnvTdjZIZVuc0U+TR9lPoQbU3S5tHhOkRQnDJ
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AYEmqnEK+ZW1LyOvLCeEAeVu2buvJCjq2V+xD5/30WQWoc0ze97nradCwPLEEfz2o6U=
z-ms-exchange-antispam-srfa-diagnostics: SSOS;
x-ms-office365-filtering-correlation-id: 65522488-6775-4a9d-df44-08d517d46325
x-microsoft-antispam:
UriScan:;BCL:0;PCL:0;RULEID:(22001)(4534020)(4602075)(4627075)(201703031133081)(201702281
549075)(2017052603199);SPVR:DM2PR09MB0763;
z-ms-trafficdiagnostic: DM2PR09MB0763;
x-exchange-antispam-report-test: UriScan:;
z-microsoft-antispam-prvs:
<DM2PR09MB0763EB2DD6B1AC7ADDA62D0EEC430@DM2PR09MB0763.namprd09.prod.outlook.com>
x-exchange-antispam-report-cfa-test:
BCL:0;PCL:0;RULEID:(100000700101)(100105000095)(100000701101)(100105300095)(100000702101)
(100105100095)(6040450)(2401047)(8121501046)(5005006)(3002001)(93006095)(93001095)(102015

01046) (100000703101) (100105400095) (3231020) (6041248) (20161123564025) (20161123555025) (20161123558100) (20161123562025) (201703131423075) (201702281528075) (201703061421075) (201703061406153) (20161123560025) (6072148) (201708071742011) (100000704101) (100105200095) (100000705101) (100105500095);SRVR:DM2PR09MB0763;BCL:0;PCL:0;RULEID:(100000800101) (100110000095) (100000801101) (100110300095) (100000802101) (100110100095) (100000803101) (100110400095) (100000804101) (100110200095) (100000805101) (100110500095);SRVR:DM2PR09MB0763;

x-forefront-prvs: 0466CA5A45

x-forefront-antispam-report:

SFV:NSPM;SFS:(10019020) (6009001) (376002) (346002) (199003) (189002) (82746002) (6512007) (53936002) (316002) (9886003) (6116002) (5640700003) (6436002) (33656002) (3280700002) (99286003) (345774005) (6506006) (86362001) (83716003) (8676002) (105586002) (558084003) (6486002) (5250100002) (81156014) (2501003) (478600001) (14454004) (81166006) (8936002) (102836003) (5003630100001) (50986999) (7116003) (101416001) (6916009) (54356999) (5660300001) (25786009) (68736007) (3660700001) (36756003) (7736002) (2900100001) (2351001) (2906002) (305945005) (106356001) (189998001) (97736004);DIR:OUT;SFP:1102;SCL:1;SRVR:DM2PR09MB0763;H:DM2PR09MB0761.namprd09.prod.outlook.com;FPR:;SPF:None;PTR:InfoNoRecords;A:1;MX:1;LANG:en;

received-spf: None (protection.outlook.com: epa.gov does not designate permitted sender hosts)

spandiagnosticsoutput: 1:99

spandiagnosticsmetadata: NSPM

Content-Type: text/plain; charset="us-ascii"

Content-ID: <1893DE0D6070D04C97ACDAA4EAED6546@usepa.cnml.microsoft.com>

Content-Transfer-Encoding: quoted-printable

MIME-Version: 1.0

X-OriginatorOrg: epa.gov

X-MS-Exchange-CrossTenant-originalarrivaltime: 20 Oct 2017 16:05:30.5318 (UTC)

X-MS-Exchange-CrossTenant-fromentityheader: Hosted

X-MS-Exchange-CrossTenant-id: 88b378b3-6748-4867-acf9-76aacbeca6a7

X-MS-Exchange-Transport-CrossTenantHeadersStamped: DM2PR09MB0763

Message

From: Greenwalt, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C13775B8F424E90802669B87B135024-GREENWALT,]
Sent: 10/20/2017 4:05:30 PM
To: jim.macey@nebraska.gov
Subject: MS4 Issue

Jim,

Thank you for your comments this morning. I would like to follow up on the MS4 issue that was discussed. Can you please elaborate on the specific issue?

Thank you.

Sent from my iPhone

Message

From: Nephi Cole [nephi.cole@wyo.gov]
Sent: 8/10/2017 1:39:25 PM
To: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
CC: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]; Washington, Valerie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d031c02ce3a416dad0d421ee998d5a3-VWASHING]
Subject: Re: Meeting at 10:30

Thank you. We're downstairs now grabbing some breakfast.

On Thu, Aug 10, 2017 at 9:38 AM Dominguez, Alexander <dominguez.alexander@epa.gov> wrote:

Nephi,

When you arrive please call Valerie Washington, CC'd, and she will escort you to your meeting with Sarah. Valerie's direct is 202-564-1016. Thank you.

Alex Dominguez

Policy Analyst to the Senior Advisors to

the Administrator for Air and Water

U.S. Environmental Protection Agency

--

Nephi John Cole
Policy Advisor
Office of Governor Matthew H. Mead
2323 Carey Avenue
Cheyenne WY 82002
Office: (307) 777-3691

Ex. 6

Fax: (307) 777-8586

E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

Message

From: Nephi Cole [nephi.cole@wyo.gov]
Sent: 7/31/2017 7:17:26 PM
To: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
CC: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]
Subject: Re: Washington DC Visit

Alex,

I'd like to plan to meet with you on the 10th at 10:00 am if that is possible. If so, please send me an invitation. Todd Parfitt, head of our DEQ and vice president of ECOS is traveling with me, and if possible, I'd like to bring him along.

On Wed, Jul 19, 2017 at 6:53 AM, Dominguez, Alexander <dominguez.alexander@epa.gov> wrote:

Hey Nephi,

Appreciate you reaching out and more than happy set something up. Sarah is traveling on August 7th but the 10th would be able to work. Do you have a preferred time? Right now anything after 9:15AM aside from 12:00PM-1:00PM should be able to work.

Alex

Alex Dominguez

Policy Analyst to the Senior Advisors to

the Administrator for Air and Water

U.S. Environmental Protection Agency

From: Nephi Cole [mailto:nephi.cole@wyo.gov]
Sent: Tuesday, July 18, 2017 5:12 PM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Washington DC Visit

Alexander and Sarah,

I have received my itinerary for the meeting I will be attending in Annapolis on the 8th and 9th August. I will be attending the National Governors Association (NGA) Water Policy Institute on those days.

I have arranged to fly into Washington DC on the 7th in order to accommodate meetings before the NGA program begins. I thought it might be beneficial to visit with your team prior to that meeting. I am hopeful that you could meet with me on the afternoon of the 7th. My flight arrives around 1:00 PM.

I have asked Director Todd Parfitt to travel with me on this trip. He leads the Wyoming Department of Environmental Quality and is the Vice President of the Environmental Council of States.

We have a lunch meeting with the Staff Lead for House Natural Resources on the 10th prior to flying out that evening at 6:00 PM. We hope to set meetings with the staff of our own Senator John Barrasso, who leads Senate EPW, as well as Senator Carper's minority staff for the 10th.

Please let me know when possible if we can meet on the afternoon of the 7th, or if an alternate time might be preferable on the 10th.

--

Nephi John Cole
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--

Nephi John Cole
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Fax: (307) 777-8586

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of public business, is subject to the Wyoming Public Records
Act and may be disclosed to third parties.

Message

From: Torstenson, Cassandra L. [ctorstenson@nd.gov]
Sent: 8/16/2017 2:23:56 PM
To: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]
Subject: Re: Contact

Will do! Thanks again. We look forward to working with you.

Kindly,
Cassandra

Sent from my iPhone

> On Aug 15, 2017, at 7:14 PM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:
>
> ***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****
>
> Yes, both would be great. Thank you, Cassandra!
>
> Sarah A. Greenwalt
> Senior Advisor to the Administrator
> for Water and Cross-Cutting Issues
>
> U.S. Environmental Protection Agency
> Work: 202-564-1722 Ex. 6
> Greenwalt.Sarah@epa.gov
>
> -----Original Message-----
> From: Torstenson, Cassandra L. [mailto:ctorstenson@nd.gov]
> Sent: Monday, August 14, 2017 6:11 PM
> To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> Subject: RE: Contact
>
> Sarah,
>
> It was nice to meet you and the Commissioner as well. We are working on our comments and will have them in next week. Would you like me to send them to you and submit them online?
>
> Kindly,
> Cassandra
> Cassandra Torstenson | Policy Advisor | 701.328.2200 (o) | 701.328.2205 (f) | ctorstenson@nd.gov North Dakota Office of the Governor | 600 East Boulevard Avenue, Bismarck, ND 58505-0001 | <https://www.governor.nd.gov/>
>
>
>
>
> -----Original Message-----
> From: Greenwalt, Sarah [mailto:greenwalt.sarah@epa.gov]
> Sent: Wednesday, August 9, 2017 11:29 AM
> To: Torstenson, Cassandra L. <ctorstenson@nd.gov>
> Subject: Contact
>
> ***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****
>
> Cassandra,
>
> It was great meeting you today. I look forward to receiving your comments.
>
> Best,
> Sarah Greenwalt
>
> Sent from my iPhone
>
>

Message

From: Williams, Quinn L - DNR [Quinn.Williams@wisconsin.gov]
Sent: 6/5/2017 3:53:52 PM
To: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]
CC: Williams, Quinn L - DNR [Quinn.Williams@wisconsin.gov]
Subject: Wisconsin VTA guidance and Region 5 comments
Attachments: FW: Draft VTA Guidelines; 2016 12 05_EPA comments_FeedStorageRunoffGuidance v.2016 07.pdf; FW: Feed Storage - VTA Guidance Document; 2016 03 04_WI CAFO VTA letter.pdf

Hi Sarah!

Good talking to you last week.

Attached are the initial 3/16 letter from Region 5 regarding VTAs, along with our corresponding draft guidance, as well as EPA Region 5's comments on that draft guidance.

You have any time for a quick discussion sometime this week?

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Quinn L. Williams
Chief Legal Counsel
Director - Bureau of Legal Services
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-1318
(☎) fax: (608) 266-6983
(✉) e-mail: quinn.williams@wisconsin.gov

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 04 2016

REPLY TO THE ATTENTION OF:

WN-16J

Mr. Mark D. Aquino
Director, Office of Business Support and Science
101 South Webster Street
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Subject: CAFO Vegetative Treatment Areas

Dear Mr. Aquino:

In response to recent discussions between Region 5, Water Enforcement and Compliance Assurance Branch, and Wisconsin Department of Natural Resources, Runoff Management Section, this letter is intended to clarify the application of EPA's Effluent Limitations Guideline (ELG) for concentrated animal feeding operations (CAFOs). More specifically, Region 5 is clarifying how this ELG applies to vegetative treatment areas (VTAs) associated with feed storage areas at CAFOs.

The federal ELG prohibits the discharge of manure, litter, or process wastewater pollutants from production areas at Large CAFOs that are subject to 40 CFR Part 412 Subpart C or D, into waters of the United States. An exception arises when, subject to additional conditions, a discharge is caused by precipitation and consists of an overflow from a structure that is designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater including the runoff and direct precipitation from a 25-year, 24-hour rainfall event. 40 CFR §§ 412.2(g), 412.31(a)(1), 412.32(a), 412.33(a), 412.35(a), 412.43(a), 412.44(a), and 412.45(a). Feed storage areas are part of the production area at CAFOs, and process wastewater includes any water which comes in contact with, among other things, feed, thus the discharge of process wastewater pollutants in runoff from the feed storage area at a CAFO is subject to the "no discharge" performance standard requirement of the ELG. Region 5 is concerned that the use of VTAs and the design standards for VTAs established in a Natural Resources Conservation Service (NRCS) Conservation Practice Standard does not ensure that the required level of performance is being achieved.

During compliance evaluation inspections at Wisconsin CAFOs, Region 5 has documented discharges of manure, litter, and process wastewater pollutants from VTAs to waters of the United States. These discharges are not compliant with the federal ELG or Wisconsin Administrative Code nor are such discharges authorized by the Wisconsin Pollutant Discharge

Elimination System (WPDES) CAFO permits. 40 CFR §§ 412.31(a), 412.32(a), 412.33(a) and 412.35(a); NR 243.13(2)(a); and WPDES Permit W1-0063274-01 Sections 3.1 and 3.2.

Region 5 is finding that CAFOs in Wisconsin are designing VTAs to meet design standards established by NRCS. Based on inspections and field observations, it does not appear to Region 5 that VTAs or the NRCS design standards for VTAs ensure that the required "no discharge" level of performance established in the federal ELG is being achieved.

To the extent that any VTAs are to be used at Large CAFOs to control runoff of process wastewater pollutants from the production area (whether alone or in conjunction with other control technologies or methods), the VTAs need to be designed, constructed, operated and maintained to achieve compliance with the "no discharge" performance standard requirement of the ELG. Review of VTA designs must focus on meeting the ELG performance standard and not just the NRCS design standards. This review should consider operation of the VTA under various conditions such as, but not limited to, when the ground is saturated or frozen, freeze-thaw conditions, likelihood of sufficient winter vegetation, and accumulation of nutrients and other pollutants over time. A CAFO may also request that an alternative performance standard be established in its WPDES permit for its VTA. The alternative performance standard is a separate and distinct exception to the performance based ELG that authorizes a discharge of process wastewater based on a site-specific demonstration. 40 CFR § 412.31(a)(2) and NR 243.13(2)(b). For additional EPA guidance on this subject, see the National Pollutant Discharge Elimination System Permit Writers' Manual for Concentrated Animal Feeding Operations, Appendix F ("Voluntary Alternative Performance Standards for CAFOs").

If you have any additional questions concerning this matter please feel free to contact me directly. Your staff may also contact either Cheryl Burdett or Julianne Socha, of my staff, at (312)-886-1463 or (312) 886-4436, respectively.

Sincerely,



Tinka G Hyde
Director, Water Division

cc: Pamela Biersach, Director, Bureau of Watershed Management
Mary Anne Lowndes, Chief, Runoff Management Section



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

DEC 05 2016

WN-16J

Pamela Biersach, Director
Bureau of Watershed Management
Wisconsin Department of Natural Resources
101 S. Webster Street
PO Box 7921
Madison, WI 53707-7921

Subject: Draft Feed Storage Runoff Controls for CAFOs guidance

Dear Ms. Biersach:

Thank you for the opportunity to review the Wisconsin Department of Natural Resources (WDNR) draft *Feed Storage Area Runoff Controls for CAFOs* guidance. EPA has reviewed the draft guidance to determine whether it is consistent with the federal effluent limitations guideline (ELG) for Large concentrated animal feeding operations (CAFOs) and acknowledges our concerns regarding documented discharges of manure and process wastewater pollutants from vegetative treatment areas (VTA) to waters of the United States (see EPA letter dated March 4, 2016).

EPA provides the following comments and recommendations on the draft guidance:

1. The guidance should include State action to advise permitted CAFOs to immediately implement interim measures to cease all discharges of pollutants from VTAs while the state and facility work to make any necessary modifications to the existing Wisconsin Pollutant Discharge Elimination System (WPDES) permit. The guidance as currently written does not require WPDES permitted CAFOs to ensure that their VTA meets the "no discharge" performance standard. Inspections conducted by EPA have documented discharges of pollutants from existing VTAs at WPDES permitted CAFOs. Wisconsin Administrative Code NR 243.31 provides that WDNR may, following notice to the permittee, modify, suspend or revoke a permit, in whole or in part when the state finds that the owner or operator of a CAFO violated its WPDES permit. WDNR should provide notice to all permitted Large CAFOs that operate a VTA that a discharge of pollutants from the VTA to a navigable water is a violation of its current permit.

2. Options 3 and 4 in the guidance provide for the use of an infiltration basin to control feed storage runoff. Although these options include criteria to ensure that an infiltration basin is designed, constructed, operated and maintained to contain all manure, litter and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event, it is unclear how the WPDES permit will ensure that groundwater protection standards are met as required by Wis. Stats. 283.31(3) and NR 243.13(1). Option 3 in the guidance provides that operators should collect at least up to the peak flow from a 1-inch storm, however, it is unclear what data WDNR has used to support this requirement or if this requirement will be protective statewide. EPA recommends that permittees be required to submit a site-specific demonstration supporting what minimum amount of feed storage runoff collected prior to runoff entering the infiltration basin will be protective of groundwater quality. EPA also recommends that groundwater monitoring be required pursuant to NR 243.15(7) at all CAFOs operating infiltration basins. In the absence of groundwater monitoring, WDNR will have no method to determine if the operation is complying with groundwater standards.

3. The Objective and Options sections of the guidance should clarify that the options in this guidance do not guarantee that the “no discharge” performance standards will be attained. The guidance should make clear that the state will review each feed storage runoff control system design on a case-by-case basis and will require additional design criteria beyond that presented in the guidance, if necessary, to ensure compliance with the “no discharge” performance standard.

4. To be consistent with 40 CFR 412.31(a)(1)(i) and NR 243.13(2)(a)(2), the “or” should be changed to “and” and “process” should be added to describe wastewater in the first bullet of Section C. Background and Definitions. The bullet should read “...constructed and maintained to contain all manure **and** process wastewater ...”.

5. The Implementation section, fourth bullet, should require that design plans meeting the “no discharge” performance standard be submitted with the permit application; a schedule to evaluate an existing VTA for a new permittee is not acceptable. If interim practices are necessary while construction is being completed, the permit should identify these interim practices. To further implementation of this guidance and compliance with the “no discharge” performance standard, EPA recommends that WDNR notify all permitted CAFOs and CAFOs with pending permit applications of this guidance once finalized. WDNR should highlight in this notification that all CAFOs, permitted or those with pending applications, take necessary action to ensure that all feed storage runoff control systems meet the “no discharge” limitations for CAFO production areas and that any unauthorized discharge from the production area is a violation.

6. EPA recommends that the Options Section - Runoff Storage Requirements that Apply to All Options - clarify that case by case design criteria may be required for protection of both surface water quality standards and groundwater protection standards.

7. The Options Section - Discharges Impacting Outstanding and Exceptional Resource Waters and 303(d) Listed Waters - provides that additional design practices may be required for discharges that impact ORW, ERW or 303(d) listed waters. This is inconsistent with the overall goal of the guidance which is to eliminate discharges of pollutants from feed storage runoff control systems. The federal ELG does not authorize discharges from feed storage runoff control

systems. These systems should be operated as no discharge systems. It is unclear why this section of the guidance is suggesting that there may be discharges that need further design criteria requirements.

8. Options 2 and 3 refer to the use of "multiple discharge locations" or "multiple discharge points" to provide uniform application of runoff over the entire VTA or infiltration basin. The use of the term "discharge" may cause some confusion. EPA recommends WDNR not use the term discharge. Multiple inlet locations is an option that WDNR could consider using.

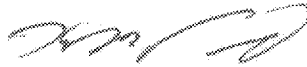
9. Option 3(c) Vegetation section should include that management of vegetation be included in the CAFO's nutrient management plan.

10. The citation NR 243.15(6) in Option 3(e) Groundwater Monitoring and Option 5 sections should be corrected to NR 243.15(7).

11. EPA recommends that groundwater monitoring be required pursuant to NR 243.15(7) at all CAFOs operating VTAs that discharge to an internally drained area. In the absence of groundwater monitoring, WDNR will have no method to determine if the operation is complying with groundwater standards.

If you have any questions or would like to discuss these comments further please feel free to contact me or Julianne Socha, of my staff, at (312) 886-4448 or (312) 886-4436, respectively.

Sincerely,



Kevin M. Picard
Chief, NPDES Programs Branch

cc: Mary Anne Lowndes, Chief, Runoff Management Section
Bernard Michaud, Water Resources Engineer, Agriculture Runoff Program

Message

From: Michaud, Bernard J - DNR [Bernard.Michaud@wisconsin.gov]
Sent: 5/25/2017 9:21:30 PM
To: Simek, Andrew J - DNR [Andrew.Simek@wisconsin.gov]
Subject: FW: Draft VTA Guidelines
Attachments: FeedStorageVTAs-Draft Guidelines-2015-October 29.pdf

Hi Andrew,

This is the e-mail where we sent the first proposal for VTAs to EPA. We offered ways to improve VTAs as well as the "zero discharge" options.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Bernie Michaud, P.E., P.H.
Phone: (608) 266-5239
Bernard.michaud@wisconsin.gov

From: Lowndes, MaryAnne - DNR
Sent: Friday, October 30, 2015 3:15 PM
To: bahr.ryan@epa.gov; Burdett, Cheryl (burdett.cheryl@epa.gov)
Cc: Michaud, Bernard J - DNR
Subject: FW: Draft VTA Guidelines

Ryan and Cheryl ,

As requested by the USEPA, the Wisconsin DNR has developed a proposal for how to address the deficiencies in the design and operation of Vegetated Treatment Areas (VTAs) for the treatment of runoff from CAFO feed storage areas. The attached draft guidelines include:

- action items to implement the current design standards more effectively;
- proposed strengthening of the current standard;
- summary results from a feed storage field study; and
- design concepts which go beyond what is in the current standards.

We have received input from the Wisconsin NRCS Engineering staff, Wisconsin DATCP Engineering staff, and UW Discovery Farms staff on this document. It is hoped that these draft guidelines can be a starting point in a discussion between the USEPA and the Wisconsin DNR on what would be an appropriate path forward for feed storage runoff controls and VTAs. Perhaps we can have a meeting or a conference call to discuss the draft guidelines after you have had a chance to review them. Please contact me or Bernie Michaud (608-266-5239), the staff engineer who coordinated this document if you have any immediate comments or questions.

Thanks,
Mary Anne

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Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Mary Anne Lowndes
Runoff Management Section Chief
Wisconsin Department of Natural Resources
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Feed Storage Areas and Vegetated Treatment Areas (VTAs) at CAFOs

Guidelines Discussion– 10/29/2015

Draft – Not for Distribution

Wisconsin Dept. of Natural Resources Runoff Mgmt. Section

INTRODUCTION

There have been recent concerns on the part of the U.S. EPA that Vegetated Treatment Areas (VTAs) do not control contaminated runoff from feed storage areas to a level which would satisfy the requirements of Concentrated Animal Feeding Operation (CAFO) production areas. (Although this document focuses on feed storage area runoff control, most of the issues raised herein similarly apply to animal lot runoff controls using VTAs.) Field observations from Wisconsin DNR staff also indicate many VTAs have not performed well, however VTAs that appear to be performing very well have also been observed.. This document outlines design and operation guidelines to improve the performance of VTAs. The first section lists methods to improve implementation of the current practice standard (Wis. NRCS Standard 635) which are being addressed now in DNR engineering review. The second section describes certain proposed revisions to NRCS Standard 635, intended to address perceived loopholes and gaps. The third section discusses results of feed storage VTA runoff sampling, including a University of Wisconsin (UW) Discovery Farms study, and results from samples taken during EPA/DNR inspections, which help inform how well these systems are working. The fourth section provides VTA design concepts intended to treat all runoff flow (up to the 25-year, 24-hour storm). The fifth section provides VTA design concepts intended to be “zero discharge” systems.

We are in the process of learning more about feed storage runoff contaminant dynamics and VTA treatment performance. The UW Discovery Farms study of feed storage runoff control systems is not yet complete, in that their data analysis is expected to continue through the end of 2015. Their staff has helped review this document. The University of Wisconsin-Madison Biological Systems Engineering Department has also been studying the effectiveness of VTAs. It is hoped that their staff will be able to review and comment on this document in the near future. More results from these types of studies will further inform the design of feed storage runoff control systems.

1. IMPROVED IMPLEMENTATION OF CURRENT REQUIREMENTS

Under the current CAFO requirements in Wisconsin, feed storage leachate must be diverted to a waste storage facility and feed storage runoff must either be diverted to a waste storage facility or treated in a VTA. Treatment of contaminated runoff from a CAFO feed storage is typically accomplished using a leachate/first flush runoff collection system and a VTA designed according to NRCS 635 Vegetated Treatment Area (10/2014). On a site specific basis the DNR may require a greater first flush collection volume or a larger VTA than is specified by NRCS 635 for water quality protection purposes. According to NR 243.13, all portions of the production area are prohibited from pollutant discharge to navigable water except if proper containment is provided and a precipitation event occurs that is greater than the design storm (25-yr, 24-hr storm for most CAFOs in Wisconsin, including dairies). Discharges from the production area also must not cause exceedance of surface water or groundwater standards. These requirements apply to both direct and indirect pollutant discharges to surface water or groundwater. The current NRCS 635 criteria for CAFOs were expected to achieve compliance with ch. NR 243 and the WPDES Permit in most circumstances, but DNR staff is aware there are difficulties implementing the operation and maintenance requirements, and

additional criteria may be necessary. The owner remains responsible for compliance, regardless of DNR approval of the system design and operation.

Field observations and DNR engineering plan review have indicated there are a number of common issues that cause VTA design or operation to not meet the all of the criteria in NRCS 635, or to not meet what is considered to be the intent of the standard (a significant level of water quality protection). These common issues are listed below (#1-16). In some cases, the recommendations go beyond what is in the NRCS standard and may be required by the DNR under the authority of NR 243, the WPDES Permit, Wis. Stats., or Condition of Approval for a VTA.

Numbering here attempts to begin with siting and design issues, and end with operation and maintenance.

1. Additional Buffer: A buffer of at least 35 feet length is needed after the VTA, if the end of the VTA is within 100 feet of concentrated flow.

This is generally consistent with NRCS 635. NRCS 635 uses the term “surface water feature” and defines that term as having a discernable bank or side slope, while concentrated flow is defined more broadly in ch. NR 243.

2. Vegetation Establishment: Vegetation must be well established (high percentage groundcover adequate to maintain stability and prevent erosion) prior to discharge of feed area runoff onto the VTA. This also pertains to reestablishing vegetation if required after initial construction.

This is specified in NRCS 635. If runoff is released to the VTA before vegetation is established, channelized flow and erosion occur, and vegetation establishment becomes more difficult. NRCS 629 requires that contaminated runoff shall be delivered to a VTA or collected for land application. During vegetation establishment all runoff up to the 25-yr, 24-hr storm (or up to the design overflow rate) cannot be discharged as untreated storm water or discharged onto the VTA (and vegetation re-establishment, when needed). The plan and specifications submittal must include documentation of how this will be performed. For the higher frequency, lower flow runoff events, running the pump to storage without the timer shutoff may be adequate, but for the lower probability, higher flow runoff events enhanced pumping and/or storage capacity may be required to meet the discharge requirements.

The following are recommended measures to ensure full groundcover and may be required by DNR for CAFOs under the authority of NR 243. These include; applying mulch per NRCS Tech. Note 5 if the VTA slope exceeds 3 %; watering seeded areas weekly if weekly rainfall does not exceed 0.25 inches until vegetation is established; and, adding a nurse crop to the “Traditional” seed mix in NRCS Standard 342. Post-Construction documentation of well-established VTA vegetation (100% groundcover) may be required including photographs of the VTA along the entire upper edge of the VTA.

3. Cropped Field VTA: If the VTA is a cropped field, a cover crop planted each fall.

A Condition of Approval to require a cover crop is appropriate for a VTA that is a cropped field. If a cover crop cannot be planted (such as due to a wet fall or early winter) feed storage area runoff cannot be discharged onto the VTA until the next crop is re-established and the runoff must be collected in storage. An important component of the treatment process in VTAs is the nutrient uptake from plants. NRCS 635 requires that vegetation be well established prior to introducing wastewater.

4. VTA Separation: All portions of the VTA must be at least 2.5 feet above saturation and bedrock.

This is specified in NRCS 635. Seasonal saturation must be considered. Soil fill may be used to achieve the separation distance, and to achieve the specified minimum % fines. **In accordance with ch. 30, Wis. Stats.**, a wetland cannot be filled or used as a VTA, unless the necessary specific approval or permit is obtained to do so.

5. Keep Solids Off VTA: Remove feed solids upstream from the VTA.

This is specified in NRCS 635.V.D.b. Feed solids contain a high concentration of nutrients/pollutants, so keeping solids off the VTA is important to complying with the Production Area Discharge Limitations. The following are recommended measures to ensure adequate removal of solids and may be required by DNR for CAFOs under the authority of NR 243.

- Flow spreaders should not also do double duty as the required solids collection feature. Those that do often get clogged and don't spread flow uniformly. The solids collection feature should be separate and upstream from the flow spreader.
- If screens are used there should be recommended design parameters including: a minimum screen area for a given flow rate (screen approach velocity of 1.25 to 3.3 fps and a screen opening velocity < 3 fps); appropriate screen materials which are easy to clean such as wedge wire screens, perforated stainless steel plate screens, or other similar materials (wooden "picket fences" may not be appropriate); a maximum opening size (1/2" to 1"); a screen orientation at a shallow angle or parallel to flow rather than perpendicular. A self-cleaning "Coanda" wedge wire screen could also be used if there is substantial fall from the feed storage to the VTA.
- If sedimentation basins are used they should hold a pool of liquid and have an outlet flow path which goes below the liquid surface to skim off floating solids. Sediment basins should have the ability to trap neutrally buoyant material. There should be the ability to drain the pool so accumulated solids can be dried and removed and to avoid attracting flies if they become a problem.
- Materials removed from solids removal or sedimentation areas should be disposed of properly either by land spreading per the approved NMP or delivery to an approved waste storage facility. Solids removal protocol should be described in the Plans and Specifications Operation and Maintenance manual.

6. Year Round Collection: Leachate and first flush runoff must be collected all year.

This is specified in s. NR 243.15(2) and (9), the WPDES Permit, NRCS 635, and NRCS 629. All leachate must be collected and runoff must be controlled, without regard to seasonality. Leachate must be collected and conveyed to storage year round. During the winter months the VTA vegetation is dormant and treatment levels decline so it is important to deliver the runoff during warm ups to storage. If the system freezes-up or the pumps are pulled during winter, measures must be taken such as; pumping during warm ups to tanker trucks with temporary pumps or, storing removed snow in areas which drain to a waste storage facility or temporary storage areas which can regularly be pumped out. Where possible, the collection tank and pump system should be designed to prevent freezing, so it is operable throughout the year.

7. Spreaders and Erosion Control: Runoff must be evenly distributed across the top of the VTA width; runoff may need re-distribution each 100-200 feet of VTA slope length. Erosion control is also needed at the top spreader.

This is specified in NRCS 635. Reliable distribution can be achieved using permanent structures with the ability to maintain an accurate flow discharge elevation such as slotted concrete spreader curbs, or an above ground pipe manifold, with either device discharging onto a gravel splash pad to

control erosion at the top of the VTA. A potential new method to distribute flow evenly would be an irrigation “bubbler” system if properly designed and installed. A gravel spreader may be effective to re-distribute runoff mid-VTA, but a gravel spreader used alone to distribute flow along the top of the VTA often results in channelized flow and erosion. Sediment and other solids also build up in the gravel and can’t be removed, making gravel replacement necessary. These problems occur after a relatively short service period, resulting in the need for increased maintenance. DNR may not approve gravel spreaders for the primary flow distribution system at the head of the VTA; although in some cases flow spreaders constructed with 4 to 6-inch round stone with a highly effective solids separation system have proven to be effective.

8. **Flatness Tolerances for Spreaders and VTAs: NRCS 635 specifies uniform flow across the VTA.**

Construction tolerances are recommended to ensure even flow across and down the VTA. DNR may require construction tolerances for CAFOs under the authority of NR 243.

- a. For construction of non-pressurized flow spreaders the discharge invert elevations such as concrete slots or pipe manifold slots, apply a construction tolerance limit to ensure even flow across the VTA width. For this purpose, the recommended minimum tolerance is plus or minus 1/2 inch over a 50-ft width. Flow spreaders utilizing an elevated pipe manifold with splash spreaders should be designed so that flow is evenly distributed across all the manifold outlets.
- b. Similarly for the VTA, apply a construction tolerance limit to ensure the VTA is graded evenly. For this purpose, the recommended flatness tolerance is plus or minus 0.10 foot from side to side. (Reference: USDA National Engineering Handbook, Part 645, Appendix E).

9. **Limit Infiltration:** Flow spreaders must not be infiltration sinks.

This is generally consistent with NRCS 635. The DNR considers these components to be transfer systems and requires liquid-tight designs. To protect groundwater quality, all feed leachate must be collected, and contaminated runoff infiltration beyond the VTA root zone must be limited. Systems that infiltrate significant pollutant quantities are also regulated under ch. NR 214, Wis. Adm. Code.

10. **Improved mid-VTA Flow Spreader: NRCS 635 requires flow spreaders every 200 feet to ensure sheet flow and prevent rilling.**

The stone berm flow spreaders typically used at mid-points in VTAs tend not to distribute flow evenly. A recommended spreader design has stone spreaders dug into the ground as shallow trenches, underlain by an impermeable membrane liner with the lip of the liner even with the ground and the rocks protruding just above the ground to catch debris. Stone should be large enough to not move in high flows such as 2”-4” round stone. Such a design would allow farming equipment to drive over it. The purpose of the liner is to limit infiltration and to provide a pool which will more evenly distribute the flow. It is also recommended to provide 100 foot spacing, which is less than the 200 foot spacing in NRCS 635. DNR may require a mid-VTA flow spreader designed as described above under the authority of NR 243.

11. **Keep Flows Separate:** The runoff volume to be routed to the VTA must not overflow out of the system.

This is specified in s. NR 243.15(2) and (9), the WPDES Permit and NRCS 635. Reliable containment of the VTA runoff volume can be achieved by installing a concrete floor and perimeter curbs at the spreader area, along with a slotted concrete spreader bar (described above). Earthen berms used to contain runoff in the flow spreader area may become denuded, erode and allow contaminated runoff to flow outside of the flow spreader system and VTA unintentionally.

12. Remove Nutrients from the VTA and Avoid Compaction: Cut and remove vegetation from the VTA, and keep animals and equipment (except for mowing) off the VTA.

This is generally consistent with NRCS 635. Turf or grass vegetation must be mowed and removed frequently enough to prevent the grass from falling over. At least twice per year mowing is normally needed. If the VTA is a cropped field, nutrients are removed with crop harvest. Mowing (and other equipment access, if needed) should be done when the VTA is dry enough to avoid compaction and rutting. Mowing and removal frequency or criteria must be described in the Plans and Specifications Operation and Maintenance manual.

Controlled grazing is allowed by NRCS 635 as a method to harvest vegetation from the VTA, but NRCS 635 is not intended to achieve no pollutant discharge. If grazing the VTA is proposed, it must be addressed in the Plans and Specifications for the VTA. However, grazing the VTA is unlikely to be approved by DNR under the authority of NR 243, because it can be expected to recycle nutrients back onto the VTA, rather than ensure nutrient removal.

13. Repair VTA As Needed: Channelized flow and erosion on the VTA must be promptly repaired. If channelization and erosion reoccur, action should be taken to correct the cause.

This is specified in NRCS 635. Excessive or reoccurring channelized flow and erosion on the VTA may be caused by the following:

- Solids build-up on the spreader.
- An uneven spreader bar or uneven slots in the spreader bar. (Tolerance limits are needed.)
- An ineffective spreader type or design.
- Uneven grade across the width of the VTA.

14. Waste Feed: Waste feed, including plowed snow containing feed, must be stored within the feed storage area (or other approved containment area) to provide leachate collection and runoff control.

This is specified in s. NR 243.15(9), the WPDES Permit and NRCS 629, waste feed must be stored within a facility approved for storage of feed, solid manure or liquid manure, until the waste feed is properly disposed by land application in accordance with an approved NMP. Significant quantities of feed are typically found in snow that has been removed from feed storage areas. Snow piles containing feed must be managed as feed / waste feed.

15. Snow Plowing: Snow pile placement must not interfere with clean storm water diversions or feed leachate collection and runoff control systems.

This is specified in s. NR 243.15(2) and (9) the WPDES Permit, feed leachate collection and runoff control must be provided, and clean water must be diverted away from the feed storage area. Snow piles are sometimes mistakenly placed in locations that block drainage paths, resulting in the following problems:

- Reduced ability to collect leachate and control runoff.
- Clean storm water might not be effectively diverted away from feed storage areas.
- Feed storage areas could become inundated, creating increased feed spoilage and greater volumes of contaminated runoff.

DRAFT by G. Wheat

2. STRENGTHENING CURRENT DESIGN STANDARD

There are a couple of provisions in the current NRCS 635 Design standard described below which could be considered “loopholes” and should be changed to meet the intent of the standard. In addition, the standard does not differentiate between VTAs planted with annual row crops and those planted in permanent vegetation. The design criteria should recognize the differences between these vegetation types.

No VTA Sizing Discount for Steep VTAs

Eliminate the provision allowing the reduction of the VTA area by half if the flow depth over the VTA is maintained at 1 inch or less. This provision has merit if the reduced flow depth is achieved by having a low flow rate, which would result in better treatment. However, in practice the reduced flow depth is often achieved by having an increased flow velocity as the result of a steep slope or reduced flow roughness, which would result in a reduced level of treatment.

Pros: Eliminate a perceived loophole in the standard and prevent undersizing of the VTA.

Cons: May increase required VTA size.

Longer Minimum VTA Flow Through Length

Require a minimum flow length of 100 feet, replacing the current minimum of 20 feet. This is consistent with the National NRCS 635 Standard and the Wisconsin NRCS 635 criteria for animal lot VTA design using the overland flow process.

Pros: Consistency with National Standard and will provide longer flow through contact times, increasing the opportunity for runoff to infiltrate into the root zone for treatment.

Cons: May increase required VTA size.

Cropland VTA Design and Management Requirements

The National NRCS 635 states that “Permanent vegetation consisting of single species or a mixture of grasses, legumes and/or other forbs adapted to the soil and climate shall be established in the treatment area”. The Wisconsin NRCS 635 standard for feed storage runoff states that the VTA “shall consist of grassed, wooded, or cropped areas” – implicitly allowing annual row crops like corn. There is no differentiation between the grass and cropland VTAs in the Wisconsin NRCS 635 design criteria. Since row crops do not offer full soil coverage, there is more potential for soil movement and flow channeling in the VTA than with grass. Cropland VTAs should have additional design/management criteria to address this. While most VTAs are grass VTAs and only one or two CAFOs in Wisconsin have cropland VTAs, the potential exists for more VTAs to be vegetated with row crops, making these additional criteria a priority. There are no known CAFO VTAs which are wooded, and it is proposed that they not be allowed for CAFOs due to the likely difficulty in achieving distributed flow across such a VTA.

Additional design and management for cropland VTAs include: **a)** Require the last 15% of the VTA length (minimum 15 feet) to be planted in permanent vegetation per NRCS 342; **b)** Require a minimum vegetated buffer length of 50 feet (rather than 35 feet) at the end of the VTA if the discharge point is within 100 feet of concentrated flow; **c)** Require the VTA area be increased by 20% over that determined in Table 2 of NRCS 635 (excluding the permanent vegetation at the end); **d)** Require annual soil testing for nutrients (minimum 2 locations at top and bottom of VTA) to monitor nutrient application rates and adjust fertilization rates, first flush collection or VTA size if necessary. Per Item 3 of Section 1 above, cropland VTAs will be required to have cover crops established if runoff discharges are planned for when there are no established annual crops. The numeric criteria in this paragraph are subject to change. It may also be better for the permanent vegetation referred to in **a)** above to be at the upper end of the VTA or maybe even have it at both ends.

3. FIELD STUDIES AND TESTING

UW Discovery Farms First Flush Analysis Results

The ongoing UW Discovery Farms Bunker Silage and Runoff Management Study has provided valuable information which can inform how to design more effective feed storage collection and treatment systems and to assess how well the current systems are operating.

The UW Discovery Farms Final Report “Evaluating the Ability of Wisconsin Farms Storing Silage and/or High Moisture By-Products to Meet the No Discharge Criteria” (1/20/2014 with final revision 3/24/2015) gives an indication of how effective the “first flush” collection system could be at delivering nutrients to storage. For the initial 10 month study period, the Farm A collection system delivered 74% of Total Phosphorus and 77% of Total Kjeldahl Nitrogen to storage. The total drainage area to this VTA is 4.16 acres and the feed bunker area is 2.89 acres. The “first flush” collection averaged 0.12” per storm event and represented 23% of total runoff volume. For this particular site, the “first flush” volume was actually a low flow pumping regime with pumping over a large portion of the runoff hydrograph due to constricting orifices and pipes, which is not typical for this design feature. It must be noted that this high level of nutrient collection may not be indicative of a typical first flush collection system due to the atypical low flow pumping regime and other site and weather specific conditions.

UW Discovery Farms is also investigating pumping schemes to optimize nutrient collection further while minimizing the stored volume. They have found that nutrient concentrations are often high during the receding flow of the runoff event as well as during the beginning flow. Preliminary concepts include either a pump to storage of low flow during the entire runoff event (preliminarily recommend 1% of the peak 2-yr flow rate) or a pump to storage only during low flows and not during the peak of the event (possibly controlled by a conductivity meter). Such systems could potentially increase the efficiency of nutrient collection but could also be more complicated to design and operate than the current “first flush” approach.

April 2015 VTA Discharge Testing

On April 24 and 25, 2014 the Wisconsin DNR and/or the US EPA collected runoff samples from the discharge end of three CAFO VTAs in Brown County. The three VTAs were known to have design and/or operational deficiencies and were designed and constructed prior to the implementation of major revisions to the NRCS 635 Vegetated Treatment Area Standard in 2012. The collections were completed during or shortly after a rain event. The Green Bay Climate Data Report from the National Climate Data Center shows that there was 0.43” of rainfall on April 24th and a trace of rainfall on April 25.

Below is a table summarizing the testing results for Total Phosphorus (TP) as well as some key VTA design parameters. The VTAs would be significantly undersized according to the 2012 design standard sizing criteria. In addition, the slope of 0.5% is at the bottom end of the allowable slope range and could be contributing to poor sheet flow characteristics. It would be reasonable to expect that VTAs constructed according to the current standard would provide better treatment than that provided by these three VTAs.

Name	Date	TP Conc. (mg/l)	VTA Ratio*	VTA Slope	First Flush Collection**	VTA Ratio with Current Standard
BR1	4/24	3.12	35%	0.5%	0.2”	70%
BR2	4/24	10.1	13%	0.5%	0.2”?	55% based on deeper separation
BR3	4/25	2.08	10%	0.5%	0.05”	Not allowed – at least 100%

*VTA area to contributing area ratio

**First flush collection depth as designed and approved by DNR. 2008 Design Report for BR2 was not available so collection depth is assumed.

There are additional design and operation deficiencies in these VTAs described as follows:

BR1: The leachate/first flush pumping is turned on and off manually and may not be meeting the 0.2" first flush collection goal. The VTA exceeds the 10:1 length to width ratio maximum now required by the current standard.

BR2: Flow on the VTA is concentrated. There is no flow spreader at the top end and the VTA is unevenly graded. The leachate/first flush pumping is turned on and off manually and may not be meeting the 0.2" first flush collection goal.

BR3: The leachate/first flush pumping is turned on and off manually and may not be meeting the 0.05" first flush collection goal. There is a berm at the end of the VTA and much of the vegetation is dead.

To provide some perspective on these VTA discharge TP concentrations, runoff from vegetated areas without wastewater being applied to them would be expected to be less than the concentrations coming off a VTA but not zero either. Based upon one year's worth of preliminary data from a USGS study of a CRP field in St. Croix County, the annual flow-weighted concentration of TP is approximately 0.6 mg/L and TKN is approximately 1 mg/L. This CRP field has been in CRP for approximately 10 years.

4. POSSIBLE REVISED HYDRAULIC DESIGN OF VTAs FOR 25-YEAR STORM

The current NRCS 635 Design Standard (10/14) allows feed storage runoff from storms greater than 25% of 25-yr peak flow to be bypassed untreated and uncollected. However, NR 243 prohibits any discharge from the production area up to the 25-year storm event (for dairy cows and cattle). One reason to allow this bypass is that these higher flows typically contribute a relatively small amount of the total nutrient loading on an annual basis. Of the three farms in the UW Discovery Farms study over a 2 year period, only one rain event produced a flow exceeding 25% of the 25-year peak flow so it would be reasonable to expect that bypassing of untreated flow would be relatively infrequent. While nutrient concentrations during high flows are often lower than the low flow events, it cannot be assumed that nutrient concentrations in runoff flows above 25% of the 25-year storm are negligible. The one measured event in the UW Discovery Farms Study which had a flow greater than 25% of the 25-year storm had a Total Phosphorus concentration of 16.8 mg/l at the peak flow. It should be noted that during this event the system was overtopping and the water sample collected was from a location which would have been mixed with higher concentrated runoff from the low flow portion of the runoff event, so it is likely that the overtopping runoff had a TP concentration less than 16.8 mg/l.

Sizing VTAs for runoff up to and including the 25-year storm event would be a move toward providing no surface water discharge as required by NR 243. The current feed storage VTA sizing table in NRCS 635 was based somewhat on hydraulic calculations for a maximum flow depth and minimum flow through time for the design flow rate of 25% of the 25-year storm peak flow. A simple spreadsheet can be made to calculate a VTA's length and width based upon the design flow rate, slope, roughness, and target flow depth and flow through time. VTA area remains the same regardless of the slope if other parameters are kept equal, but the length and width vary proportionately. The VTA area could be reduced based upon the quantity of first flush collection, similar to that done in the current NRCS 635 sizing table.

As a starting point the maximum flow depth could be 1-inch and the minimum flow through time could be 12.6 minutes. These are the same parameters specified when using the overland flow process for animal lot VTAs in NRCS 635. Using the 1-inch flow depth results in unreasonably wide VTAs so a deeper flow depth may be desirable. The target flow through time can be adjusted up to keep the same area ratio. A hypothetical case with these parameters results in a VTA to contributing area ratio of approximately 1.4:1. A hypothetical adjustment for first flush collection could result in an area ratio of 0.8 for a 0.25-inch collection and an area ratio of 2.0 for a 0.05-inch collection. Design flow rates could be reduced with detention basins or high flow collection as discussed below.

Concept 1 - Basic VTA Hydraulically Sized for 25-year storm

Size the VTA based on the 25-year peak flow and a target minimum flow through time and maximum flow depth as discussed above. These calculations take into account the peak design flow rate (25-yr storm), and the VTA slope, length, width, and surface roughness. The minimum flow through time is used to calculate the length and the maximum flow depth is used to calculate the width. For example, a minimum flow through time of 22 minutes and a maximum flow depth of 1.75 inches would result in a VTA to contributing area ratio of 1.4:1. A method to allow reduction of VTA size according to how much first flush runoff was collected would be devised.

Pros: Takes into account the 25-year peak flow. More transparent and flexible method than using a table. Can be regionally specific based upon design flow rates.

Cons: It is more complicated to use equations than to use a table. Prescribing the length and width of the VTA will make it more difficult to site than if just the area is prescribed. Without some type of storage and/or end of VTA collection system (discussed below) it is unlikely that a VTA can treat a 25-yr peak flow without a pollutant flow.

Concept 2 - VTA with Sediment Basin Pre-treatment

Require a large sediment basin pre-treatment using a methodology similar to that used in NRCS 632 Waste Separation. This standard requires the basins to have a volume 65% of the peak inflow rate from a 25-year storm over 15 minutes. Such a basin would have two benefits; it would improve pre-treatment for the VTAs; and it would reduce the peak flow rate going to the VTA, increasing the VTAs ability to treat flows without a discharge. The sediment basin volume could reduce the 25-yr peak flow by approximately 45%. During smaller storms (~ 1 inch or less) the basin may provide full containment and then could act as a “Sunny Day” release system as described below. An even larger volume could be built if the desire was to decrease the peak flow even more. Sizing would be based on maximum flow depth and minimum contact time as discussed above but with using the reduced peak flow.

Pros: Could possibly reduce problems from solids accumulation in flow spreaders and the VTA. Would reduce peak flows and therefore improve VTA effectiveness. Could provide for “Sunny Day” release for the more common storm events.

Cons: Possibly need additional design criteria to address the neutrally buoyant solids in feed storage area runoff. May still have discharge during a 25-year storm event. One would have to weigh whether the peak flow attenuation and resultant VTA size reduction is worth the cost of adding the basin. There may not be room to include a sediment basin within the production area.

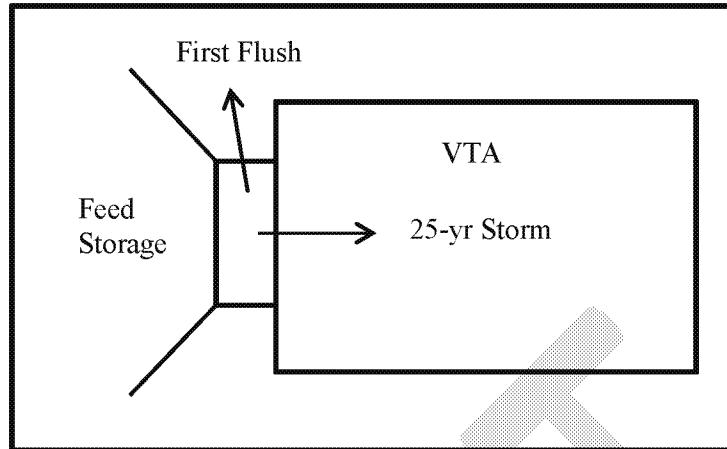
Concept 3 - VTA with First Flush/Low Flow Collection combined with High Flow Collection:

This concept is to collect a low flow, allow intermediate flows onto the VTA, and then collect high flows up to the 25-year flow. The runoff collected in the high flow collection basin could be released back onto the VTA after the storm event (sunny day release), pumped to manure storage, or directly field applied. VTA would be sized based on maximum flow depth and minimum contact time as discussed above but using the high flow cutoff flow.

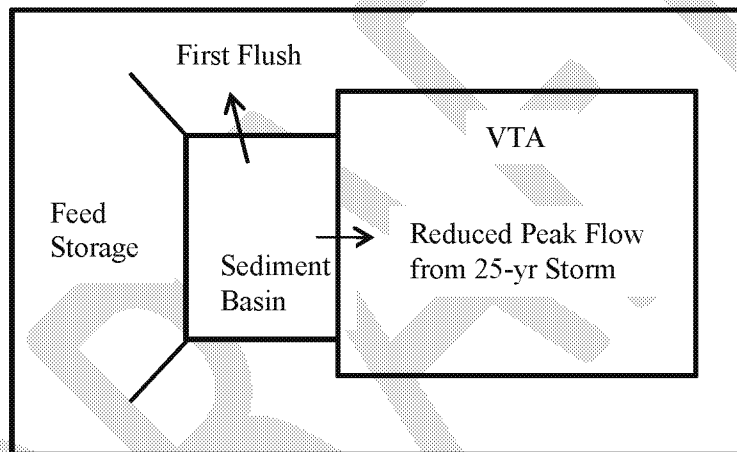
Pros: Avoids bypass of the 25-year storm. Reduces VTA size.

Cons: May end up diverting much of the runoff to storage. One would have to weigh whether the VTA size reduction is worth the cost of adding the basin.

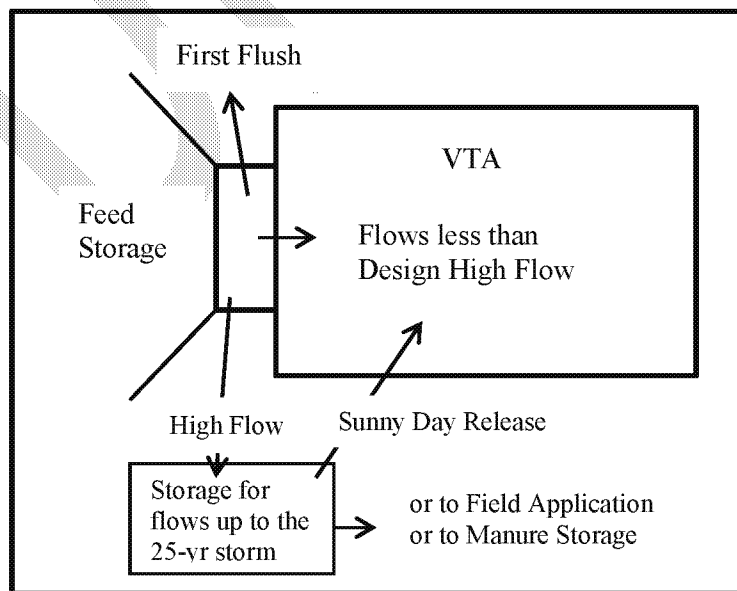
Concept 1 - Basic VTA Hydraulically Sized for 25-year storm



Concept 2 - VTA with Sediment Basin Pre-treatment



Concept 3 - VTA with High Flow Collection



5. POSSIBLE “ZERO DISCHARGE” SYSTEMS

The design concepts below are thought to provide zero discharge up to and including the 25-yr storm from feed storage areas.

Concept 4 - Full Runoff Collection and Storage Systems

An alternative to a VTA system would be full collection and storage of all flows up to the 25-year storm. If separate from the manure storage, then the 180 days storage requirement is not specified by rule (NR 243.15(3)(d)) but an extended storage period would be needed to meet NMP requirements. The storage would be sized to contain the 25-yr runoff volume, have 1-ft. of freeboard, and the capacity required for storage between land application events as specified in the NMP. The waste storage would need to meet the requirements of NR 213. NR 243.14.(2)(c) allows application of process wastewater on frozen or snow covered ground if it meets the requirements of NR 214.17(2) to (6). Hypothetical sizing of such a waste storage for a three-acre feed storage drainage area with a 4.8” 25-yr rainfall depth would be 1,574,990 gal. for 180 days of storage and 616,419 gal. for 60 days of storage.

Pros: Avoid the complexities of constructing and operating a VTA. Avoid the uncertainty of whether VTAs discharge in a 25-year storm. Less land area requirement than a VTA.

Cons: Added difficulty of field applying the wastewater.

Concept 5 - “Cropped Field” VTA/Sunny Day Release System

The VTA would no longer be considered part of the production area but would be considered a Cropped Field managed with a nutrient management plan. The Cropped Field would be sized according to the calculated annual nutrient loading and the calculated crop requirements. Nutrient loads would have to be measured or estimated with “typical” loading results from the UW Discovery Farms study. The operation and maintenance plan for the Field would include monitoring nutrient content of harvested vegetation, and annual soil sampling. A sampling protocol would be developed with multiple samples progressively moving away from the upstream edge. Increasing concentrations of P and/or K in the soil over time may indicate that the Field should be expanded or more runoff should be collected. Surface water discharge out of the end of the Field would be considered agricultural storm water.

To comply with the NMP requirements of NR 243, feed storage runoff could not be discharged onto the Cropped Field during rain events or when the soil is saturated. This would likely require a Sunny Day release system where runoff up to and including the 25-year storm would have to be collected in a storage basin and released onto the Cropped Field some period after the rain event. This allows the VTA to dry out and more readily infiltrate the collected runoff into the root zone and the discharge rate can be slowed down to approximate the infiltration rate of the VTA. The storage basin would be sized to contain the entire 25-yr runoff volume with 1-ft. of freeboard and the means to collect runoff during the winter season while the VTA vegetation is dormant would also be required.

The size of the Field would depend on the quantity of feed storage and also how much flow is collected to storage in the first flush. A hypothetical case was assessed using UW Discovery Farms nutrient loading data for the Farm A system discussed in Section 3 above (note that this may understate the nutrient loading for many systems). Snap + indicated that the Field to drainage area ratio ranged from 0.65:1 for a Reed Canary Grass cropping, 0.97:1 for a corn/alfalfa rotation, and 1.4 for smooth brome grass. Seed mixes with smooth brome grass have been commonly used for VTAs in Wisconsin. Reed Canary Grass has been used for wastewater treatment due to its high nitrogen

uptake and tolerance of inundation. However, it is listed as a non-regulated invasive species by DNR and is not in the NRCS 342 Critical Area Planting Standard.

Pros: Better assessment and monitoring of nutrient uptake and accumulation on the Field. Runoff discharge onto the Cropped Field after the storm event allows for better infiltration into the root zone.

Cons: There could still be flow off the Field. Past research studies of animal lot VTAs indicate that the amount of nutrients being removed with harvesting vegetation from the VTA is generally much less than the quantity discharged onto the VTA. Requires more management.

Concept 6 - Infiltration Basin:

This concept is to construct an infiltration basin capable of containing the full 25-year runoff volume. The infiltration basin would be constructed based on the DNR Conservation Practice Standard 1003 Infiltration basins. Absorption pond criteria in NR 214 should be abided by as well (including groundwater monitoring). The infiltration basin would be sized according to the infiltration capacity of the infiltration basin soils with a target design storm and drawdown time. Both the runoff from the feed storage area and the direct precipitation on the infiltration basin must be infiltrated. DNR Conservation Practice Standard 1003 requires a maximum drawdown time of 24 hours but this design standard was intended to target smaller more frequent storms. The maximum drawdown time is intended to limit plant mortality due to prolonged inundation. It may be reasonable to use a more frequent storm for sizing. With many soils the 25-year rainfall just from the direct precipitation on the infiltration basin will not infiltrate within 24 hours. In any case the basin would be deep enough to contain the 25-yr rain event. The infiltration rate of the VTA would be based on DNR 1002 or in situ field measurements. Typically the in situ field measurements provide much higher infiltration rates. Multiple discharge points may be necessary to ensure even distribution of runoff over the basin since full utilization of the basin area usually requires a flat bottom. Soil amendment may be necessary and deep rooted vegetation may be necessary to maintain infiltration capacity. A hypothetical sizing scenario for an infiltration basin using a DNR 1002 infiltration rate for silt loam (0.13"/hr), a 1-yr storm and a 24 hrs drawdown time results in a infiltration basin to contributing area ratio of 3.1:1

Pros: Full containment of the 25-year storm event.

Cons: Potential for groundwater contamination. Track record of clogged infiltration basins in Minnesota. Potentially long drawdown times or large basin area.

Concept 7 - Infiltration VTA with Discharge End Collection System:

In this concept the VTA would be designed to infiltrate the runoff from the feed storage but would allow the direct precipitation on the VTA to be discharged first. A berm with a flow gate on the downslope end of the VTA would could alternately allow outflow or contain flow. There would also be a Sunny Day release storage. During the storm event runoff from the feed storage area would be collected in the Sunny Day release storage and the VTA flow gate would be open so that direct precipitation can runoff from the VTA. After the storm the gate would be closed and the collected runoff from the feed storage would be released onto the VTA. Collected runoff at the berm could either be manually pumped or an automatic pumping system which recirculates the runoff back to the head of the VTA could be installed. It would be expected that runoff would frequently reach the end of the VTA and would require an automatic pumping system to keep up with recycling the runoff back to the head of the VTA. The VTA would be sized according to the infiltration capacity of the VTA soils with the target to infiltrate the 25-year runoff volume within 24-hours. The infiltration rate of the VTA would be based on DNR 1002 or in situ field measurements. Hypothetical sizing of a

VTA to infiltrate the 25-yr runoff volume using a DNR 1002 infiltration rate for silt loam results in a VTA to contributing area ratio of 1.35:1. This assumes pumping from the discharge end back to the head of the VTA.

Pros: There would be no discharge during the 25-year storm.

Cons: Unproven design. VTA could become oversaturated during large rain events. High pumping costs if cycling time is long. Potential for groundwater contamination. Additional operation and maintenance with opening and closing gates before and after rain events.

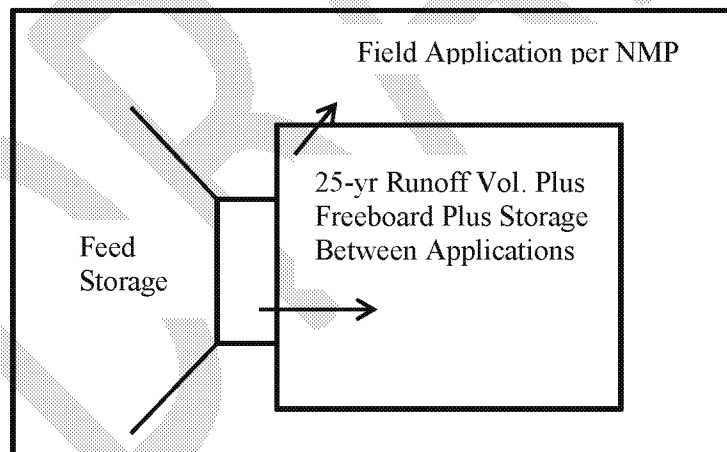
Concept 8 - Feed Storage Full Coverage:

This concept is to cover the feed storage area so that rainfall cannot come into contact with stored feed. This includes the area in front of the working face of the feed where feed has spilled on the feed pad. Currently rainfall sheds off plastic tarps down bunker walls and comes in contact with feed or runoff on flat feed pads goes between the rows of covered feed and can seep into the feed piles. This may require some larger structure which can cover the entire area. Non-rainfall related leachate collection would still be required. A variation of this is to store feed in feed storage bags on a paved pad. Leachate would still have to be collected, but if housekeeping of the pad is highly effective, it could be argued that rainfall runoff would be clean and not need to be collected or treated.

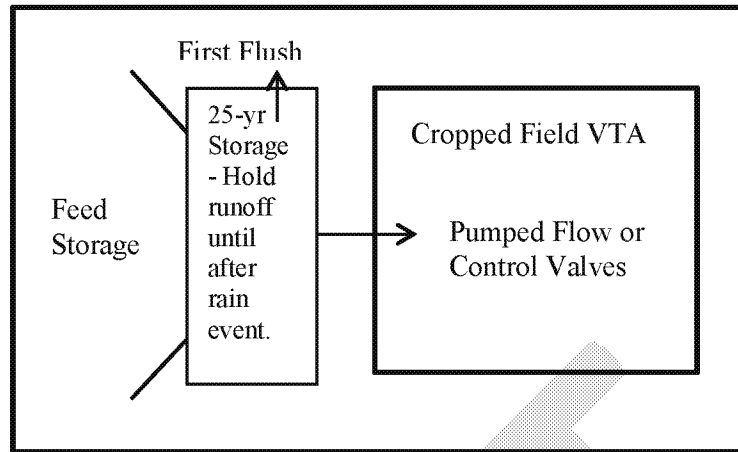
Pros: No runoff collection, storage, or treatment required since runoff would be “clean”.

Cons: Uncertain how to do this without a huge roof. Tall covering structures potentially subject to large wind shear.

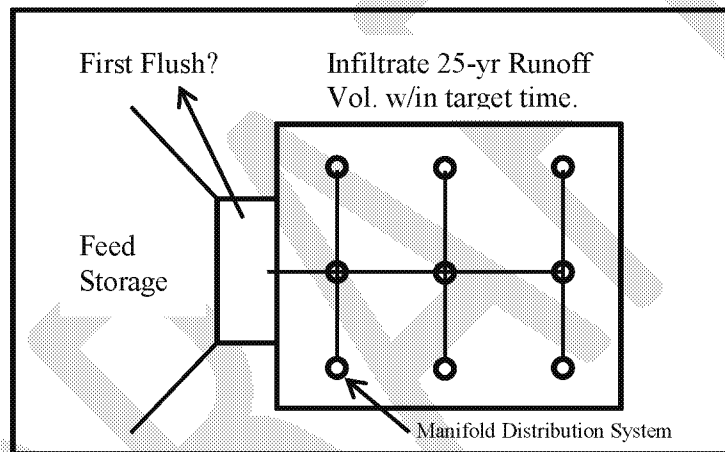
Concept 4 – Full Collection



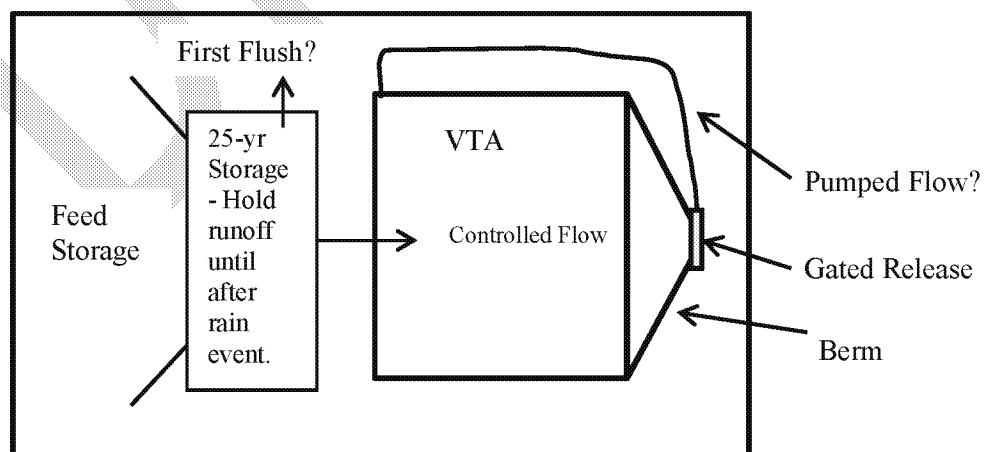
Concept 5 – “Cropped Field” VTA with Sunny Day Release System



Concept 6 – Infiltration Basin



Concept 7 – Infiltration VTA with End Collection System



DRAFT by B. Michaud

Message

From: Michaud, Bernard J - DNR [Bernard.Michaud@wisconsin.gov]
Sent: 5/25/2017 9:26:50 PM
To: Simek, Andrew J - DNR [Andrew.Simek@wisconsin.gov]
Subject: FW: Feed Storage - VTA Guidance Document

Andrew,

This is the e-mail that EPA sent with comments on the posted guidance. This was followed up with a formal letter, which I will e-mail you next.

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Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Bernie Michaud, P.E., P.H.
Phone: (608) 266-5239
Bernard.michaud@wisconsin.gov

From: Socha, Julianne [mailto:socha.julianne@epa.gov]
Sent: Wednesday, November 23, 2016 9:42 AM
To: Lowndes, MaryAnne - DNR
Cc: Michaud, Bernard J - DNR; Burdett, Cheryl
Subject: RE: Feed Storage - VTA Guidance Document

MaryAnne – WD would like to submit these comments via a letter to Pam, however, it does not look like the letter will complete the routing through our sign off chain by November 28 so I wanted to send comments via email. Although the language in any letter to Pam may be different, I do not expect the context of the comments to differ from the comments below.

Below are R5 comments on the post-public notice draft *Feed Storage Area Runoff Controls for CAFOs* guidance shared with R5 on or about July 12, 2016. These comments reflect review of the draft guidance by both NPDES and Water Enforcement CAFO Coordinators.

1. EPA's primary concern is that the guidance does not address existing CAFOs operating with a WPDES permit that operate VTAs. The guidance does not recommend action by the permittee to address a discharge of pollutants from the VTA until reissuance of the permit and it is likely that the reissued permit will provide a schedule for conducting an evaluation and making any necessary design changes. The state should notify all permitted CAFOs that a discharge of pollutants from a VTA to a navigable water is a violation of its permit. The state should also advise the permittee to take immediate action to implement interim measures to cease all discharge of pollutants from VTAs while the state and facility work toward making any necessary modifications to the existing WPDES permit.

2. Another concern of EPA's is Options 3 and 4 which provide for the use of an infiltration basin. Although these options include criteria to ensure that an infiltration basin will contain runoff and direct precipitation from a 25-yr/24-hr storm event to meet the federal effluent limitations guidelines, it is unclear how the WPDES permit will ensure protection of groundwater standards as required by Wis. Stats. 283.31(3) and NR 243.13(1). The guidance includes first flush collection requirements, however, it is unclear if these first flush collection requirements are science-based nor how these first flush collection requirements will consider facility-specific factors. EPA recommends that a science-based, site-specific demonstration to support a first flush collection requirement be included in a permit application. EPA also recommends that groundwater monitoring be included in the permit for any CAFO using options 3 or 4. In absence of groundwater monitoring, WDNR will have no way to determine discharges to groundwater from the infiltration basin are complying with state groundwater standards.

3. The Objective and Object sections of the guidance should clarify that the options in the guidance do not guarantee that the “no discharge” performance standard will be attained.
4. Section C, Background and Definitions, first bullet, delete “or” and replace with “and process”, i.e., the first bullet should read “...constructed and maintained to contain all manure **and process** wastewater ...”
5. The Implementation section for new permittees with an existing VTA should be changed to require design plans meeting the “no discharge” performance standard be submitted with the permit application. If interim practices are necessary while construction is being completed at a new permitted facility with an existing VTA then the permit should include these interim practices. EPA recommends that WDNR notify all permitted CAFOs and CAFOs with pending permit applications of this guidance once finalized and highlight in this notification that all CAFOs, permitted and those with pending applications, need to take action to ensure that all feed runoff control systems meet the “no discharge” performance standard and that any unauthorized discharge will be a violation of the permit.
6. In the Recommendations that Apply to All Options section, the third sentence should clarify that WDNR may require different design criteria to protect both surface and ground water quality. In the Discharges Impacting Outstanding and Exceptional Resource Waters subsection of this section, it states that WDNR may require additional design practices where discharges impact ORW/ERW and 303d listed waters. This statement is confusing since a permit should not allow a discharge from a feed runoff control system; if there is no authorized discharge in the permit why would additional design practices be required.
7. Option 2.d. and Option 3.c. reference “multiple discharge locations” or “multiple discharge points”, EPA thinks the use of the term “discharge” is misleading. EPA recommends that the guidance not use the term discharge in these instances and recommends changing the language to say that multiple inlet locations may be necessary.
8. Option 3 and 4 include a requirement to cut and remove vegetation. It is unclear if the permit or if the NMP will include requirements from maintaining and removing vegetation. Please clarify.

I am available next week on Monday or Tuesday if you would like to discuss these comments further. I will also let you know the status of the letter to Pam as soon as possible.

Julianne

Julianne Socha | NPDES Programs Branch | Water Division | U.S. EPA | Region 5
77 W. Jackson Blvd., WN-16J | Chicago, IL 60604 | 312-886-4436
socha.julianne@epa.gov

From: Lowndes, MaryAnne - DNR [<mailto:MaryAnne.Lowndes@wisconsin.gov>]
Sent: Wednesday, November 16, 2016 4:39 PM
To: Socha, Julianne <socha.julianne@epa.gov>
Cc: Michaud, Bernard J - DNR <Bernard.Michaud@wisconsin.gov>
Subject: Feed Storage - VTA Guidance Document
Importance: High

Julianne,

We will be finalizing our guidance on VTAs for Feed Storage for CAFOs at the end of November. We would still like to see any comments EPA has on the guidance. If you can get it to us by November 28th, we may still be able to incorporate it into the final document. Thank you for the time you have spent reviewing it and we hope to see your comments very soon.

Mary Anne

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Mary Anne Lowndes
Runoff Management Section Chief
Wisconsin Department of Natural Resources
101 S. Webster St., PO Box 7921, Madison, WI 53707
Phone: 608-261-6420
MaryAnne.Lowndes@Wisconsin.gov



Message

From: Boutilier, Lynn A [Lynn.A.Boutilier@maine.gov]
on behalf of Mercer, Paul [Paul.Mercer@maine.gov]
Sent: 5/9/2017 3:13:25 PM
To: Dravis, Samantha [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ece53f0610054e669d9dffe0b3a842df-Dravis, Sam]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
Subject: Water Quality Standards
Attachments: Dravis-Bolen-Greenwalt-Gunasekara-Jackson (US EPA) Water Quality Standards 05-09-17.pdf

Hard copies have been mailed.



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
ENVIRONMENTAL PROTECTION



PAUL MERCER
COMMISSIONER

May 9, 2017

Ms. Samantha Dravis, Associate Administrator
Office of Policy – US EPA Headquarters
William Jefferson Clinton Bldg.
1200 Pennsylvania Ave., N.W.
Mail Code 1804A
Washington, DC 20460

Ms. Brittany Bolen, Deputy Associate
Administrator
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Ms. Sarah Greenwalt, Senior Counsel
Office of General Counsel – US EPA
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Ms. Mandy Gunasekara, Senior Policy Advisor
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Washington, DC 20460

Mr. Ryan Jackson, Chief of Staff
Office of the Administrator - US EPA
Headquarters
William Jefferson Clinton Bldg.
1200 Pennsylvania Ave., N.W.
Mail Code 1101A
Washington, DC 20460

Dear Ms. Dravis, Ms. Bolen, Ms. Greenwalt, Ms. Gunasekara, and Mr. Jackson:

It is my understanding that EPA is reviewing petitions from the Governor of the State of Maine (dated February 27, 2017) and from the Town of Baileyville, Maine, Verso Corporation, and Woodland Pulp LLC (dated March 6, 2017), which collectively ask EPA to withdraw EPA's letter actions regarding Maine dated February 2, 2015, March 16, 2015, and June 5, 2015 (with the exception of EPA's recognition of Maine's statewide environmental regulatory jurisdiction and authority over all waters, including tribal waters), approve Maine's existing water quality standards for all applicable tribal waters, and undertake all necessary steps to repeal EPA's final rule on Maine's water quality standards, 81 Fed. Reg. 92466 (Dec. 19, 2016). These issues are important for our state, and I respectfully request that EPA approve and undertake all relief requested by the petitions.

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1255 CENTRAL DRIVE, SKYWAY PARK
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web site: www.maine.gov/dep

Letter to S. Dravis, B. Bolen, S. Greenwalt, M. Gunasekara, and R. Jackson
(May 9, 2017)
Page 2 of 2

As you may know, EPA recently requested a stay of Maine's appeal of EPA's February 2, 2015 letter action that is pending in the United States District Court for the District of Maine, No. 14-cv-00264-JDL. EPA staff may at some point want to consider discussing the relief requested by the petitions, which could be facilitated by counsel. I appreciate your attention to these important Maine matters.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Mercer", with a long horizontal flourish extending to the right.

Paul Mercer
Commissioner

Message

From: Nephi Cole [nephi.cole@wyo.gov]
Sent: 6/21/2017 8:00:02 PM
To: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]
CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: Re: Stream Orders...

I will be out next week as well. I have some meetings with in DC. Anytime after the 4th would be great.

On Wed, Jun 21, 2017 at 1:51 PM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:
Nephi, thank you for your email! Sorry for missing your calls. I would be glad to chat with you. Just FYI, I'm traveling next week and so it might be the first week in July when I have an available slot.

Alex, would you please find some time on my calendar to talk with Nephi?

Sent from my iPhone

On Jun 21, 2017, at 12:32 PM, Nephi Cole <nephi.cole@wyo.gov> wrote:

Dear Sarah,

A friend of mine, Dave Ross, and I were talking on the telephone a few days ago and he mentioned that he had a discussion with you that centered on a few questions from another agency related to watersheds and stream orders. He thought I might be able to be a resource for you if you wanted someone to bounce a few technical details off.

Prior to joining Governor Mead (WY) I was a leader for the USDA NRCS on water and other issues. My background isn't necessarily typical for policy - soil science, geomorphology, landscape modeling, conservation and environmental planning.

I'd love to talk with you some time if it is convenient. Thank you again for the work that you're doing at EPA. It is appreciated.

Sincerely,

Nephi Cole

--

Nephi John Cole
Policy Advisor
Office of Governor Matthew H. Mead
2323 Carey Avenue
Cheyenne WY 82002
Office: (307) 777-3691
Ex. 6
Fax: (307) 777-8586

E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

--

Nephi John Cole
Policy Advisor
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Office: (307) 777-3691
Ex. 6
Fax: (307) 777-8586

E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

Message

From: Williams, Quinn L - DNR [Quinn.Williams@wisconsin.gov]
Sent: 6/7/2017 11:07:26 PM
To: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]
Subject: RE: next steps for VTA discussion

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Quinn L. Williams
Chief Legal Counsel
Director - Bureau of Legal Services
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-1318
(☎) fax: (608) 266-6983
(✉) e-mail: quinn.williams@wisconsin.gov

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From: Greenwalt, Sarah [mailto:greenwalt.sarah@epa.gov]
Sent: Wednesday, June 07, 2017 11:50 AM
To: Williams, Quinn L - DNR
Subject: Re: next steps for VTA discussion

Thank you for this information.

Sent from my iPhone

On Jun 7, 2017, at 3:01 AM, Williams, Quinn L - DNR <Quinn.Williams@wisconsin.gov> wrote:

Hi Sarah.

See below. For our ongoing discussions.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Quinn L. Williams
Chief Legal Counsel
Director - Bureau of Legal Services
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-1318

(☎) fax: (608) 266-6983

(✉) e-mail: quinn.williams@wisconsin.gov

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<image001.gif> dnr.wi.gov

<image002.gif> <image003.gif> <image004.gif> <image005.gif> <image006.gif>

From: Crass, David A (22267) [<mailto:DACrass@michaelbest.com>]

Sent: Tuesday, June 06, 2017 1:39 PM

To: Williams, Quinn L - DNR; Vebber, Lucas; Jordan K. Lamb; John Holevoet (jholevoet@WIDBA.COM); 'pzimmerman@wfbf.com' (pzimmerman@wfbf.com)

Cc: Weigel, Brian M - DNR; Heilman, Cheryl W - DNR; Aquino, Mark D - DNR; Michaud, Bernard J - DNR; Landretti, Jane R - DNR; Lowndes, MaryAnne - DNR; Voltz, Jeffrey R - DNR; Biersach, Pamela A - DNR

Subject: RE: next steps for VTA discussion

Quinn: Thank you for forwarding and I apologize my schedule has prevented me from attending the last couple of sessions. We were aware of this letter from Ms. Hyde because Pam and MaryAnne cited it to us--as well as EPA's February 19, 2016 report of the results of the third state enforcement review-- when we first met last Spring to discuss these issues as a basis for the Department's state-wide pronouncements and actions concerning VTAs and calf hutches. I'd ask you to consider the following about those EPA documents as relates to Wisconsin's position and response:

The EPA Documents concern conditions observed at 8 CAFOs in Wisconsin. We have nearly 300 Large CAFOs I believe, meaning the "sample size" was about 0.03%. It was on this sample size that Ms. Hyde's letter is based when she communicates that EPA has "concerns" about whether the effluent limitations for both the federal and state program are being met statewide. However, USEPA's February 2016 report summary simply concludes that there is the "potential for discharge" in the report entries summarized concerning manure storage, feed storage, VTA's, feed lot areas and calf hutch areas:

Category	Findings
Stacking Areas of Manure, bagged feed, used bedding and feed.	5 of 6 facilities were found to be stacking used bedding and/or feed in unsuitable areas with the potential for runoff into a waterway.
Feed Storage Areas	7 out of 8 facilities had the potential for unauthorized discharges either from no containment, improperly designed, and/or improperly managed feed storage structures.
Vegetated Treatment Areas	4 out of the 6 facilities had unauthorized discharges from the VTA.
Feed Lot Areas	2 out of the 2 had problems with inadequate or no containment for their feedlot runoff. This runoff had the potential to discharge to surface waters.
Calf Hutch Areas	3 out of 3 had problems with runoff from calf hutch areas that had the potential to discharge to surface waters.

Note with respect to VTAs the report notes “unauthorized discharges” from the production area but does not mention “...to navigable surface waters.” All other entries simply mention a “potential” to discharge. Further to that, under the “next steps” column in the summary report, USEPA writes:

WDNR is transitioning from focusing on manure and process wastewater management and storage at the production site to placing additional emphasis on management of *all wastestreams that have potential to discharge* including production area storm water runoff, feed storage areas, calf hutch area, and vegetated treatment areas.

It is ironic that USEPA would focus on areas of “potential” discharge in Wisconsin when its own effluent guideline and permitting authority only applies to Large CAFOs that have an *actual* discharge to navigable surface waters. See, *Waterkeeper Alliance, Inc. et al v. EPA*, 399 F.3d 486(2d Cir. 2005). WDNR should point out to USEPA that its permitting program is more expansive than USEPA’s, since Wisconsin Large CAFOs do not enjoy the option of self-determining that they are a “no-discharge CAFO” and hence do not need a permit and since Wisconsin’s program also requires groundwater protection. It seems to us inappropriate and a federal overreach for USEPA to suggest that a properly promulgated and incorporated technical design standard “does not ensure the required level of performance is being achieved” *statewide* when USEPA’s own reports suggest only “potential discharges” that would not themselves trigger a permitting requirement under the federal program.

Thank you.

David A. Crass
Partner
Industry Group Chair, Agribusiness, Food & Beverage

Ex. 6 michaelbest.com

Michael Best & Friedrich LLP

-----Original Message-----

From: Williams, Quinn L - DNR [<mailto:Quinn.Williams@wisconsin.gov>]

Sent: Wednesday, May 31, 2017 12:33 PM

To: Vebber, Lucas; Jordan K. Lamb; John Holevoet (jholevoet@WIDBA.COM); 'pzimmerman@wfbf.com' (pzimmerman@wfbf.com); Crass, David A (22267)

Cc: Weigel, Brian M - DNR; Heilman, Cheryl W - DNR; Aquino, Mark D - DNR; Michaud, Bernard J - DNR; Landretti, Jane R - DNR; Lowndes, MaryAnne - DNR; Voltz, Jeffrey R - DNR; Williams, Quinn L - DNR; Biersach, Pamela A - DNR

Subject: RE: next steps for VTA discussion

Hello everyone,

For those of you who may not have seen it, please see the attached letter from EPA regarding VTAs from March of 2016 that is relevant to the guidance/discussions.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Quinn L. Williams
Chief Legal Counsel
Director - Bureau of Legal Services
Wisconsin Department of Natural Resources
(t) phone: (608) 266-1318
(t) fax: (608) 266-6983

(() e-mail: quinn.williams@wisconsin.gov

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dnr.wi.gov

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Message

From: Greenwalt, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C13775B8F424E90802669B87B135024-GREENWALT,]
Sent: 8/16/2017 12:14:48 AM
To: Torstenson, Cassandra L. [ctorstenson@nd.gov]
Subject: RE: Contact

Yes, both would be great. Thank you, Cassandra!

Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 **Ex. 6**
Greenwalt.Sarah@epa.gov

-----Original Message-----

From: Torstenson, Cassandra L. [mailto:ctorstenson@nd.gov]
Sent: Monday, August 14, 2017 6:11 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: Contact

Sarah,

It was nice to meet you and the Commissioner as well. We are working on our comments and will have them in next week. Would you like me to send them to you and submit them online?

Kindly,
Cassandra

Cassandra Torstenson | Policy Advisor | 701.328.2200 (o) | 701.328.2205 (f) | ctorstenson@nd.gov North
Dakota Office of the Governor | 600 East Boulevard Avenue, Bismarck, ND 58505-0001
| <https://www.governor.nd.gov/>

-----Original Message-----

From: Greenwalt, Sarah [mailto:greenwalt.sarah@epa.gov]
Sent: Wednesday, August 9, 2017 11:29 AM
To: Torstenson, Cassandra L. <ctorstenson@nd.gov>
Subject: Contact

***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Cassandra,

It was great meeting you today. I look forward to receiving your comments.

Best,
Sarah Greenwalt

Sent from my iPhone

Message

From: Greenwalt, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C13775B8F424E90802669B87B135024-GREENWALT,]
Sent: 5/18/2017 2:45:32 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Wagner, Kenneth [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=048236ab99bc4d5ea16c139b1b67719c-Wagner, Ken]
Subject: FW: Draft Response to Letter from Flint City Councilperson: Update
Attachments: Re: Comment by Flint City Councilperson Kate Fields re Water Designation & Public Comment; Final Draft EPA Response to 5-5-17 Flint City Councilwoman Fields 5-16-17 revhs.docx

I believe Nancy sent this to you yesterday for your review. I have a few concerns with the letter that I'd like to discuss with you before you approve. Please let me know if you have 5 minutes today.

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 **Ex. 6**

Greenwalt.Sarah@epa.gov

From: Grantham, Nancy

Sent: Wednesday, May 17, 2017 1:48 PM

To: Freire, JP <Freire.JP@epa.gov>; Konkus, John <konkus.john@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grevatt, Peter <Grevatt.Peter@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Flynn, Mike <Flynn.Mike@epa.gov>

Subject: FW: Draft Response to Letter from Flint City Councilperson: Update

All –Please see the note below from bob Kaplan. He is anxious to send the response today, so we need to know whether HQ is ok with this draft.

Thanks ng

I'm ready to send this. Nancy, this is important to the Mayor and MDEQ/Michigan. They have reviewed and approved. I think it sets the right tone.

- Bob

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)

Ex. 6

From: Grantham, Nancy

Sent: Tuesday, May 16, 2017 2:28 PM

To: Freire, JP <Freire.JP@epa.gov>; Konkus, John <konkus.john@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grevatt, Peter <Grevatt.Peter@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>

Cc: Richardson, RobinH <Richardson.RobinH@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>

Subject: FW: Draft Response to Letter from Flint City Councilperson: Update

All –

Region 5 is proposing to send the attached response to an incoming letter (also attached) from a Flint City Councilwoman, regarding the future source of the City's drinking water. See background below. There is a Flint briefing for the Administrator on Friday, so we may want to have a recommendation by then on this moving forward. I have included OCIR and OW folks in this message, in addition to OPA.

Thanks ng

Recent Communications to EPA from Flint Mayor's Office and City Councilwoman Indicate Tension Regarding the City's Future Water Source (see attached)

Key Message: EPA has received separate communications from a Flint City Council member and the Mayor's office that indicate disagreement among the City's elected officials regarding the future source of the City's drinking water.

On May 5, 2017, Region 5 received a letter from City of Flint Councilwoman Kate Fields, and a follow-up email from her on May 9, accusing the Mayor of not providing the City Council and the public with enough information and time to review the Mayor's recommendation that the city continue to purchase water from the Great Lakes Water Authority (GLWA) for its long-term source of drinking water. The Councilwoman copied Michigan's U.S. Congressional delegation, Governor, and other state officials on her correspondence. In addition, the Mayor's office emailed EPA on May 10, to clarify some of the content of the Councilwoman's letter to EPA and correct misinformation. Members of Congress and elected officials from the State of Michigan were also copied on this email.

The content of these communications demonstrates a breakdown in communication within the city leadership and signals that the City Council may not support the Mayor's recommended long-term source water option. EPA supports the Mayor's recommendation since it's most protective of public health because there would be no change in the city's current source water. However, the Region's responses make it clear that EPA will not intervene on behalf of the Mayor or the Council. EPA will continue its focus on the protection of public health, including ensuring that any switches to the city's water source are properly planned and implemented as outlined in EPA's Order requirements. It is up to the city's elected officials, taking into account feedback from the public participation process, to make the final decision regarding the city's future water source.

EPA Region 5's proposed response to the Flint City Council correspondence is attached.

**Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)**

Ex. 6

W-15J

The Honorable Kate Fields, Councilperson
City of Flint, Ward 4
1101 South Saginaw Street, Room 310
Flint, Michigan 48502

Dear Councilperson Fields:

Thank you for your recent communications regarding your concerns as a City Councilperson with Mayor Weaver's designation of water sources for the City of Flint. EPA appreciates hearing the perspective that you have provided.

First, EPA understands that Mayor Weaver's April 19, 2017 letter to EPA stating that the City should stay on Great Lakes Water Authority (GLWA) water as a primary water source is a recommendation and not a final decision. The final decision would need to be made in accordance with the Flint City Charter and applicable law.

Second, EPA's January 21, 2016 Administrative Order is intended as an enforceable framework by which the City would itself arrive at a source water decision that would result in drinking water quality fully protective of public health. A main goal of the Order is to ensure that any water source water switch is accomplished safely, with appropriate planning and testing. From a public health standpoint EPA supports the Mayor's recommendation to continue purchasing water from GLWA as a long-term water source. The Mayor's recommendation takes into account: 1) the fact that the City is now experienced in treating incoming GLWA water; and 2) the fact that there is simply not enough time to undertake necessary and adequate corrosion control studies and switch over to a non-GLWA source prior to GLWA's cessation of service to the City in October of 2017.¹

Third, as you point out, the City submitted a revised Public Participation Plan regarding the City's Drinking Water Source Selection on March 28, 2017. On April 3rd, EPA urged the City to extend its proposed public comment period from 12 days to 30 days. I understand that the City did extend the public comment period, and on May 4th (in response to the Mayor providing EPA her water source recommendation), I requested that the Mayor update the City's March 27th Public Participation Plan by providing additional information. EPA awaits Mayor Weaver's response to our request for this information.²

Finally, EPA recognizes that Flint's water system is among the most heavily monitored water systems in the country, and EPA is pleased with the continuing improvement in the quality of the City's drinking water.

¹ Please see EPA's February 24, 2017 letter to the City (enclosed).

² Please see EPA's May 4, 2017 letter to the City (enclosed).

Please do not hesitate to contact me at (312) 886-1499 or kaplan.robert@epa.gov to further discuss any questions you may have regarding the content of this letter or the requirements of the EPA Order.

Sincerely,

Robert A. Kaplan

Enclosures

cc: Mr. Eric Mays, Council Member, City of Flint
Ms. Jacqueline Poplar, Council Member, City of Flint
Mr. Kerry Nelson, Council Member, City of Flint
Mr. Wantwaz Davis, Council Member, City of Flint
Mr. Herbert Winfrey, Council Member, City of Flint
Ms. Monica Galloway, Council Member, City of Flint
Ms. Vicki VanBuren, Council Member, City of Flint
Mr. Scott Kincaid, Council Member, City of Flint
Mr. Kerry Nelson, Flint City Council President
Ms. Inez Brown, Flint City Clerk
Ms. Karen Weaver, Mayor, City of Flint
Mr. Sylvester Jones, City Administrator, City of Flint
Mr. David Sabuda, Director of Finance, City of Flint
Mr. Rick Snyder, Governor, State of Michigan
Mr. Richard Baird, Governor's Office
Mr. John Young, Consultant, State of Michigan
Ms. Debbie Stabenow, U.S. Senator, State of Michigan
Mr. Dan Kildee, 5th District Congressman, State of Michigan
Mr. Gary Peters, Senator, U.S. State of Michigan
Mr. Jim Ananich, Senator, State of Michigan
Mr. Sheldon Neeley, Representative, State of Michigan
Mr. Phil Phelps, Representative, State of Michigan
Mr. Christopher Korleski, U.S. EPA
Mr. Keith Creagh, MDNR
Mr. Bryce Feighner, MDEQ
Mr. Jeff Wright, Genesee County Drain Commissioner

From: Kristin Moore [kmoore@cityofflint.com]
Sent: 5/10/2017 3:02:36 PM
To: Korleski, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=83ea7d51d2f1427e9182bce17a0ded0d-Korleski, Christopher]
CC: rick.snyder@michigan.gov; Baird, Richard (GOV) [bairdr@michigan.gov]; senjananich@senate.mi.gov; SheldonNeeley@house.mi.gov; Rep. Phil Phelps (District 49) [repphelps@house.mi.gov]; Kaplan, Robert [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=165b99dc02954540911797ba748d7566-RKaplan]; dnr-director@michigan.gov; feighnerb@michigan.gov [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user30651fe0]; jwright@co.geneseee.mi.us; Karen Weaver [kweaver@cityofflint.com]; spencerverhagen@stabenow.senate.gov; briannashamsuddoha@peters.senate.gov; dkildee@sbcglobal.net
Subject: Re: Comment by Flint City Councilperson Kate Fields re Water Designation & Public Comment
Attachments: Final 5-6-17responsetoWeaverEPAletter w attachments.pdf; Revised Public Participation Plan.pdf

Good morning,

Last week you were sent a letter from Flint City Councilwoman Kate Fields regarding "Flint Mayor Weaver's Official Designation of Water Sources for Flint, Michigan". Upon request from media, we prepared the following response to that letter and Mayor Weaver asked that it be shared with you:

We would like to clarify that what Mayor Weaver announced on April 18, 2017, was a Water Source Recommendation, not a designation. A final determination of the city's future primary and secondary water sources have yet to be made.

It is also important to note, that Mayor Weaver and her administration have not "falsified reports to the USEPA" as stated in the letter sent by Ms. Fields. In her letter, Fields references a Public Participation Plan (PPP) that was submitted to the USEPA on March 1, 2017. However, for reasons stated in another letter sent to the USEPA on March 28, the Public Participation Plan was modified to reflect a new schedule.

The **revised** Public Participation Plan dated March 27, 2017 (attached), stated City Council would be informed of the public participation process during their work session on April 5. This was done. The revised PPP was also posted online for public review. The revised PPP also stated that the formal PPP would be initiated during the week of April 17, 2017. This too was done. That week, the mayor held a press conference announcing the water source recommendation (April 18), City Council had an opportunity to ask questions about the plan at their work session (April 19) and a Town Hall meeting was held (April 20). To promote more public input, the duration of the PPP was extended. Therefore, the City of Flint has implemented the PPP that was submitted to USEPA.

Ms. Fields also stated in her letter that City Council was not informed of communications between USEPA and the City. However, all correspondence associated with the USEPA Consent Order compliance has been posted online for public review. The City Council has also been provided with numerous documents used in the water source analysis process. In addition, city officials have gone above and beyond to create resources to help ensure the public has access to a variety of methods and materials to become informed on the water source recommendation. City officials have established an email address for residents to submit questions and comments on the recommendation. Door hangers are being distributed to residents' homes with information on the recommendation (printed in two languages), post cards are also being mailed to water customers. Information has been posted in

community newspapers. Public Service Announcements are airing on radio, TV and are available for view online. A special "Water Source Recommendation 2017" section has been created on the City of Flint website with even more information available for anyone to review at anytime. Officials have made it clear that all public input is being considered before a final decision or "designation" on a water source recommendation will be determined.

It appears Ms. Fields has confused the public notification process associated with the Drinking Water Revolving Fund (DWRf) process and the Water Source Public Participation Plan. There have been public notices issued for the DWRf public hearings. However, there are no public notice requirements associated with the PPP. The goal was to get the water source recommendation to the public as soon as it was available. This was done.

Finally, the reference Fields' makes to the "radio town halls" is irrelevant to this matter and is based on an inaccurate assumption made by an MLive reporter. The "radio town halls" are **NOT** part of the public participation efforts related to the water source recommendation. The radio conversations were planned previously by the Chief Public Health Advisor at the request of the Mayor as a way to continually address **health-related** questions and concerns presented by Flint residents. Dr. Pugh and Mayor Weaver are hosting a series of weekly health-related "radio town halls", or community conversations, on Flint radio station WFLT 1420 AM where they speak with experts to provide information and answer health-related questions from Flint residents. This was, and continues to be, promoted in various ways including at community meetings with the goal of members sharing details with other residents so they can listen in and receive the information.

I hope this provides some clarity regarding the letter you received from Councilwoman Fields. There is so much misinformation being circulated that we simply cannot address every matter, however we felt this was something that needed to be corrected.

Best regards,

Kristin

Kristin Moore, Public Information/Relations
City of Flint
1101 S. Saginaw Street | Flint, MI 48502
Office: 810.237.2039 Ex. 6
kmoore@cityofflint.com



www.cityofflint.com

----- Forwarded message -----

From: **Kate Fields** <kfields@cityofflint.com>

Date: Mon, May 8, 2017 at 1:00 PM

Subject: Comment by Flint City Councilperson Kate Fields re Water Designation & Public Comment

To: Korleski.christopher@epa.gov

Cc: Rick.Snyder@michigan.gov, "Baird, Richard (GOV)" <bairdr@michigan.gov>, **Ex. 6**,
senjananich@senate.michigan.gov, SheldonNeeley@house.mi.gov, repphelps@house.mi.gov,
Kaplan.robert@epa.gov, dnr-director@michigan.gov, FEIGHNERB@michigan.gov,
jwright@co.genesee.mi.us, Karen Weaver <kweaver@cityofflint.com>, Kerry Nelson
<knelson@cityofflint.com>, Scott Kincaid <skincaid@cityofflint.com>, Inez Brown
<ibrown@cityofflint.com>, David Sabuda <dsabuda@cityofflint.com>,
SpencerVerhagen@stabenow.senate.gov, briannashamsuddoha@peters.senate.gov, dkildee@sbcglobal.net

Please see the attached letter sent to Mr. Chris Korleski of the EPA. Hard copy will follow in snail mail.
Thank you,

Kate Fields
4th Ward City Councilwoman
810-237-6888 X 3164
kfields@cityofflint.com

OFFICE OF THE CITY COUNCIL



Kate Fields
Councilperson – Ward 4
1101 S. Saginaw Street, Room 310
Flint, Michigan 48502

May 5, 2017

Mr. Chris Korleski, Director
Water Division, Region 5
United States Environmental Protection Agency
Ralph Metcalfe Federal Building
77 West Jackson Boulevard (W-15J)
Chicago, Illinois 6064-3590

Re: Flint Mayor Weaver's Official Designation of Water Sources for Flint, MI

Dear Director Korleski:

This is to inform you that the decision announced by the Mayor of Flint, regarding the city's water source is at this time, unsupported by the Flint City Council, which represents the residents of Flint.

It wasn't until today that we discovered the Weaver administration had falsified reports to the USEPA. The Public Participation Plan report claimed proper notice had been provided to City Council on March 22, 2017. The "Meeting with Flint City Council to discuss the Public Participation Plan for drinking water source selection," in fact never happened. The report falsely claimed the administration presented findings to the Council on April 6, 2017 under the title "City Leadership meets with the Flint City Council to discuss the results of the public participation and to recommend a specific drinking water source." At no time did the Weaver administration discuss Public Participation with City Council.

For months, members of council have complained that the Weaver administration has shut us out of the information that by law they are required to provide. The Weaver administration knows that Council has to approve all contracts (and Public Utility Franchises), and yet we are given no direct information. We have just learned that for months the Weaver administration has failed to provide Council with federal and state documents and communications regarding water issues. Please reference the enclosed highlighted Flint City Charter which addresses many of these elements or components.

Page 1 of 3

MUNICIPAL CENTER
1101 S. SAGINAW ST. FLINT, MICHIGAN 48502 (810) 766-7418 FAX (810) 766-7032 TDD (810) 766-7120

This is to put your office, the state government and the federal government on notice that the Flint City Council must be included in the communications and in-person committee negotiations that occur whenever Water Issues are discussed.

A thin and unsatisfactory stream of information has trickled to the Council. John Young, the State-paid consultant, has been coordinating the analysis of water options. On several occasions Council members asked him to provide the actual documents submitted by the Karegnondi Water Authority (KWA) and the Great Lakes Water Authority (GLWA), along with the analysis report. Despite ongoing requests, both verbal and written (see attached email) he has failed to present these documents to Flint City Council. Mr. Young did attend a couple of City Council Committee meetings but at no time did he or the Weaver administration present us with, or notify us of, the written Public Participation Plan (PPP). He mentioned there would be public participation, but provided no details. On May 3, City Finance Director David Sabuda finally gave City Council some spreadsheets he and Mr. Young had created with figures supposedly obtained from original submitted documents (GLWA and KWA). Council is still requesting the original documentation submitted by GLWA and KWA.

Council was given no notice of the Mayor's decision to designate our Primary and Secondary Water sources until she had a meeting with two Councilpersons on April 18, 2017 at 8:00 a.m. Two hours later she held a press conference notifying the public of her decision. A reminder: The Mayor does NOT have the authority to choose the source on her own. It takes a vote of Flint City Council to make that decision, and Council has not taken a vote. Therefore, please consider this notice that the decision is not official.

Mayor Weaver held a "Town Hall" meeting at a North Flint church on April 20, attended by about 100. About six people were arrested for refusing to remove their hats or for exceeding a 2-minute limit to speak. The only other "town hall" was held via a religious radio station on May 2; media reported they were informed of the show only 90 minutes before airing.

Residents are frustrated and angry that the Mayor has declared public comments must be completed by May 20. Residents have complained there is no substantial information on which to comment. The public has not been provided true and direct cost comparisons of the various options. There is no satisfactory system put in place for either Public Notice or Public Comment. There has been no publication of a Public Hearing as falsely claimed in Mayor Weaver's Public Participation Plan submitted to EPA on March 1, 2017. The current Public Comment Period is a sham and a mockery of democracy.

I had suggested the comment period be extended to a minimum of two months, with a web site set up for this purpose. The web site should also list other event opportunities for comment and should solicit attributed citizen comments, not anonymous comments. Despite my April 21 email to the Governor's Aide Rich Baird and John Young, I have received no response to my inquiry (also see enclosed) and request for an extended Public Comment period.

Residents are deeply troubled by the appearance that the Weaver administration is acting unilaterally to rush a decision that is not in our best interest, and that the state government appears to be complicit in pushing a poorly conceived and prohibitively costly plan the community will be forced to endure for decades.

To sum, you are advised that no legal decision has been made regarding Flint's Water Sources; the Public Comment parameters are NOT satisfactory; and the Weaver Administration has been falsely reporting compliance to your agency.

I look forward to your prompt reply.

Very truly yours,



Kate Fields
4th Ward Councilperson
City of Flint

Cc: Mr. Rick Snyder, Governor, State of Michigan
Mr. Richard Baird, Governor's Office
Mr. John Young, Consultant, State of Michigan
Ms. Debbie Stabenaw, U.S. Senator, State of Michigan
Mr. Dan Kildee, 5th District Congressman, State of Michigan
Mr. Gary Peters, Senator, U.S. State of Michigan
Mr. Jim Ananich, Senator, State of Michigan
Mr. Sheldon Neeley, Representative, State of Michigan
Mr. Phil Phelps, Representative, State of Michigan
Mr. Robert Kaplan, US EPA
Mr. Keith Creagh, MDNR
Mr. Bruce Feighner, MDEQ
Mr. Jeff Wright, Genesee County Drain Commissioner
Ms. Karen Weaver, Mayor, City of Flint
Mr. Kerry Nelson, Flint City Council President
Ms. Inez Brown, Flint City Clerk
Mr. David Sabuda, Director of Finance, City of Flint

**CITY OF FLINT
DRINKING WATER SOURCE SELECTION
PUBLIC PARTICIPATION PLAN
March 1, 2017**

Background

This Public Participation Plan has been prepared in response to the United States Environmental Protection Agency's (EPA's) November 17, 2016, First Amendment to the Emergency Administrative Order (Amended Order). Under the Amended Order, *Paragraph 60* required a submittal addressing a *New Source Treatment Plan ("NSTP" (60.b.iii))* by March 1, 2017. The Amended Order also required that, "The NSTP shall be developed in consultation with appropriate experts and the public through adequate advanced notice and opportunity for comment." This Public Participation Plan will also address the additional requirements contained in the February 21, 2017, EPA letter to City of Flint Mayor Karen W. Weaver; specifically:

- 1) *a description of how the public has been or will be engaged in the ongoing alternatives analysis process;*
- 2) *a description of how the public has been or will be engaged in the ultimate selection of the City's new water source(s);*
- 3) *a description of how the public has been or will be involved in any DWSRF-related public participation opportunities; and*
- 4) *the City's plan and timeline for vetting the relevant economic, social, political, and public health issues associated with the alternatives evaluation.*

In a letter dated November 30, 2016, Mayor Karen W. Weaver informed the EPA that Flint's long-term, primary source of drinking water would be the Flint Water Treatment Plant. The back-up source of supply would be an on-site raw water reservoir supplemented with an emergency finished water interconnection with Genesee County.

The City and its federal, state and local partners have been actively engaged in communicating with the public and seeking their input throughout this Flint water event. These public engagement activities have included numerous community conversations, mailings to organizations and individual residents, press releases, publication distribution, and presentations at Governor Rick Snyder's Flint Water Interagency Coordinating Committee meetings and Flint City Council meetings.

Regarding *DWSRF-related public participation opportunities*, a public hearing was held on June 13, 2016, at 6 p.m., in the City of Flint Council Chambers. Rowe Professional Services Company presented the project plan including costs and alternatives related to water main improvements and service line replacements to the Flint City Council and members of the public in attendance. At the conclusion of the presentation, the hearing was opened to the public for questions and numerous residents made remarks regarding the project plan and presentation. A resolution of plan adoption was passed

**CITY OF FLINT
DRINKING WATER SOURCE SELECTION
PUBLIC PARTICIPATION PLAN
March 1, 2017
Page 2**

by the council on June 27, 2016 and by the Receivership Transition Advisory Board on June 29, 2016. Because meter replacement procedures and water treatment plant improvements were not discussed at the public hearing there is a requirement for those items to be included in a yet to be scheduled public hearing. By law a public hearing advertisement needs to be published 30 days prior to a hearing. However, the City will wait until the alternatives analysis is complete and the drinking water source selection is made before scheduling that hearing.

Public outreach especially pertinent to this NSTP submittal included a direct mailing from the City to residents on January 3, 2017, regarding the current drinking water quality. Among other things, this mailing informed residents that the City was consulting with experts to develop standard operating procedures, corrosion control studies and performance testing for the Flint Water Treatment Plant in accordance with the March 1, 2017, NSTP submittal requirements. Further, on January 11, 2017, the City hosted a Town Hall meeting to share the latest water quality data, future plans for treating water at the Flint Water Treatment Plant, and receive input from residents.

Subsequent to the January 11, 2017, Town Hall meeting, the City and its consultants began evaluating water source alternatives as required by the Drinking Water Revolving Fund process. Since more alternatives are now being evaluated than previously presented to the public, additional public input will be sought as indicated below.

Timeline

Month of March 2017 – The City's consultants continue to gather input from potential water source providers regarding costs and technical feasibility and perform economic analyses on the alternatives.

March 22, 2017 – Meet with Flint City Council to discuss the Public Participation Plan for drinking water source selection.

Week of March 27, 2017 - Initiate the Public Participation Plan to obtain feedback on the recommended water source solution, alternatives evaluated, and the relevant economic, social, political, and public health issues associated with the alternatives evaluated. Initiate cost of service/rate design study based on recommended water source options and projected capital and operating plans associated with those options.

**CITY OF FLINT
DRINKING WATER SOURCE SELECTION
PUBLIC PARTICIPATION PLAN
March 1, 2017
Page 3**

March 28, 2017 – Press conference and coordinating press release to announce that Flint City leaders have received the alternatives evaluation and recommendations on the drinking water source solutions from their consultants. At the press conference, the mayor/city officials/consultants will go through the primary alternatives considered and present the pros and cons of each alternative considering the related economic, social, and public health issues. The mayor would encourage residents to express their opinions regarding the alternatives via the upcoming Town Hall meeting, E-mail comment box, or in writing.

March 29, 2017 - Town Hall meeting for residents to learn about the water source alternatives evaluated and to provide input. City leaders will go through the primary alternatives considered and present the pros and cons of each alternative considering the related economic, social, and public health issues. Residents will be provided the opportunity to express their opinions and have their questions answered. Subsequent to the Town Hall meeting residents can continue to provide input via E-mail or in writing through April 3, 2017.

April 5, 2017 – City leadership meets with the Flint City Council to discuss the results of the public participation and to recommend a specific drinking water source.

April 6, 2017 – Press conference and coordinating press release to announce the City Council's recommended drinking water source.

Flint Alternative Water Source Analysis Timeline

January 19 - Hold initial meeting with Great Lakes Water Authority (GLWA) to provide Flint's water supply requirements and discuss purchased water options

January 20 - Hold initial meeting with Genesee County Drainage Commission (GCDC) to provide Flint's water supply requirements and discuss purchased water options

January 31 – Complete Flint Water Treatment Plant Improvement report to establish the capital costs of various plant improvement and raw water storage options

February 1 to 13 – Develop operation costs (labor, power, chemicals, residual solids disposal, maintenance, etc.) for the various plant improvement options

February 9 - Meet with GLWA to discuss their water supply proposal

February 10 - Receive GCDC's purchased water proposal

February 8 to 13 – Based on engineering analysis and proposals received, develop water source options for interim, long-term and back-up supply

February 15 – Initiate Economic (Net Present Value) model development

February 16 – Establish economic parameters (inflation and discount rates, etc.)

February 22 - Review initial model results and adjust inputs and assumptions (as appropriate)

March 1 – Review “final” model results

March 2 to 17 – Based on model results, meet with GLWA and GCDC to clarify proposals and negotiate changes

Week of March 20 - Finalize economic analysis and consider other issues (public health, social, political, etc.) impacting the water source selection

Week of March 27 - Initiate the Public Participation Plan to obtain feedback on recommended water source solution. Initiate cost of service/rate design study based on recommended water source option and projected capital and operating plans associated with that option.

CHARTER COMMISSIONERS

CARL L. BEKOFKSKE
Chairman

LEROY NICHOLS
Vice-Chairman

BOB JACKSON

JOHN H. WEST

JOSEPH CONROY

CHARLES A. GREENE

JAMES P. HANLEY, JR.

PHILIP D. MARVIN

BANIUS C. HEDRICK

Charter Adopted by the People, November 5, 1974

STATE OF MICHIGAN | ss.
COUNTY OF GENESEE

I, Louis A. Hawkins, Clerk of the City of Flint, in the State of Michigan, do hereby certify that the following Charter is the Charter of the said City of Flint as adopted by the people on November 5, 1974, with all amendments thereto,

Louis A. Hawkins, City

Clerk

Dated at Flint, Michigan, March 1, 1996

MAYORS OF THE CITY OF FLINT

	Elected		Elected
1 Grant Decker	1855	55 Guy W. Selby	1909
2 Robert J. S. Page	1856	56 Guy W. Selby	1910
3 Henry M. Henderson	1857	57 John A. C. Merton	1911
4 William M. Fenton	1858	58 Charles S. Mott	1912
5 Porter Hazelton	1859	59 Charles S. Mott	1913
6 Henry H. Crapo	1860	60 John R. MacDonald	1914
7 Ephriam S. Williams	1861	61 William H. McKeighan	1915
8 William Paterson	1862	62 Earl F. Johnson	1916
9 William Hamilton	1863	63 George C. Kellar	1917
10 William Hamilton	1864	64 Charles S. Mott	1918
11 William B. McCreery	1865	65 George C. Kellar	1919
12 William B. McCreery	1866	66 E. W. Atwood	1920
13 Austin B. Witherbee	1867	67 E. W. Atwood	1921
14 Samuel M. Axford	1868	68 William H. McKeighan	1922
15 William S. Patrick	1869	69 David R. Cuthbertson	1923
16 James B. Walkers	1870	70 David R. Cuthbertson	1924
17 David S. Fox	1871	71 Judson L. Transue	1924
18 David S. Fox	1872	72 Judson L. Transue	1925
19 George H. Durand	1873	73 William H. McKeighan	1927
20 George H. Durand	1874	74 Ray A. Brownell	1929
21 Alexander McFarian	1875	75 Harvey J. Mallery	1930
22 William Hamilton	1876	76 William H. McKeighan	1931
23 Edward H. Thompson	1877	77 William H. McKeighan	1932
24 Jerome Eddy	1878	78 Ray A. Brownell	1933
25 James C. Wilson	1879	79 Howard J. Clifford	1934
26 Zacheus Chase	1880	80 George E. Boysen	1935
27 Charles A. Mason	1881	81 Harold E. Bradshaw	1936
28 William A. Atwood	1882	82 Harry M. Comins	1938
29 George E. Newall	1883	83 Oliver Tappin	1940
30 William W. Joyner	1884	84 Wm. Osmund Kelly	1940
31 Mathew Davison	1885	85 Wm. Osmund Kelly	1942
32 George T. Warren	1886	86 Edwin C. McLogan	1944
33 John C. Dayton	1887	87 Edwin C. McLogan	1944
34 Oren Stone	1888	88 Edward J. Viall	1946
35 Frank D. Baker	1889	89 George G. Wills	1948
36 William A. Paterson	1890	90 Paul Lovegrove	1950
37 F. H. Rankin, Jr.	1891	91 Donald Riegler	1952
38 George E. Taylor	1892	92 George M. Algoe	1954
39 Andrew J. Ward	1893	93 George M. Algoe	1956
40 Arthur C. McCall	1894	94 Robert J. Egan	1958
41 John Zimmerman	1895	95 Charles A. Mobley	1960
42 Samuel C. Randall	1896	96 George R. Poulou	1962
43 Milton C. Pettibone	1897	97 Harry K. Cull	1964
44 George R. Gold	1898	98 Floyd McCree	1966
45 H. Alex Crawford	1899	99 Donald Cronin	1968
46 Chas. A. Comings	1900	100 Francis E. Limmer	1970
47 C.B. Dibble	1901	101 Paul C. Visser	1973
48 A.D. Alvord	1902	102 James W. Rutherford	1975
49 A.D. Alvord	1903	103 James W. Rutherford	1979
50 B.J. MacDonald	1904	104 James A. Sharp, Jr.	1983
51 D.D. Aitken	1905	105 Matthew Collier	1987
52 George E. McKinley	1906	106 Woodrow Stanley	1991
53 George E. McKinley	1907	107 Woodrow Stanley	1995
54 Horace C. Spencer	1908		

THE NEW FLINT CHARTER INDEX

RESOLUTION OF ADOPTION

At a meeting of the Charter Revision Commission of the City of Flint held on the Third day of September, 1974 at Flint City Hall, the following members of the Charter Revision Commission were present: Carl L. Bekofske, Chairman; LeRoy Nichols, Vice Chairman; Bob Jackson; Joseph Conroy; John H. West, Jr.; Charles A. Greene; James P. Hanley, Jr.; Philip D. Marvin; Banius C. Hedrick.

At the meeting the following resolution was offered by Commissioner Marvin and supported by Commissioner Jackson.

Resolved, that the Charter Revision Commission of the City of Flint does hereby adopt the attached instrument as the proposed Charter of the City of Flint and the Clerk of this Commission is hereby instructed to transmit the proposed Charter to the Governor of the State of Michigan in accordance with the provisions of Act No. 279 of the Public Acts of 1909, as amended.

The vote on the adoption of the Resolution was unanimous.

Resolution declared adopted.

LLOYD S. HENDON

City Clerk and Clerk of the Charter
Revision Commission of the City of
Flint, Michigan

Attested by the following Commissioners:

BOB JACKSON	JOSEPH CONROY
JOHN H. WEST, JR.	CHARLES A. GREENE
JAMES P. HANLEY, JR.	PHILIP D. MARVIN
BANIUS C. HEDRICK	LeROY NICHOLS Vice Chairman
CARL L. BEKOFESKE, Chairman	

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PREAMBLE

We the people of the City of Flint, in order to guarantee equality, freedom, justice, and effective government to each of our City's residents, do hereby adopt this Charter.

— written by Donna Tinnin, Whittier Junior High

1. The people of the City of Flint have in this Charter reaffirmed their faith in fundamental human rights and in the equal rights of men and women. They have determined to promote social progress and to guarantee that City government serves the citizenry. The people of Flint have mandated that the City shall provide for public peace and health and for the safety of persons and property in the City, and they require that City officers promote respect for these rights and freedoms.
2. City officers shall pledge themselves to assure residents decent housing; job opportunities; clean air, clean waterways and a sanitary city; health care; convenient public transportation; recreational activities and facilities; and cultural enrichment.
3. The City has an affirmative duty to secure the equal protection of the law for each person and to insure equality of opportunity for all persons.
4. A person shall have reasonable access to all files and records of the City which relate to his or her rights and duties.
5. The people shall be informed of the rules and regulations governing dealings between the City and the public and shall have access to review procedures on administrative decisions.
6. The City shall endeavor to secure application of the principle of one person one vote for any regional policy making body which taxes or provides any service to City residents or takes any action affecting the City's interest.
7. Only such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare of the City shall limit the exercise of individual rights and freedoms.
8. The rights and freedoms set forth in this Declaration may in no case be exercised contrary to the purposes and principles of this Charter.
9. The enumeration in this Charter of certain rights shall not be construed to deny or disparage others retained by the people.
10. The City may enforce this Declaration of Rights and other rights retained by the people.

1. Within ten (10) days call a special primary election to be held within ninety (90) days thereafter to fill such a vacancy. A general election shall be called not less than forty-nine (49) nor more than sixty (60) days after the date of the primary election, or
 2. Call primary and general elections to be concurrent with the next State primary and general November election if such vacancy occurs within one year prior to said State general November election.
- C. Until such time as the Acting Mayor is appointed pursuant to paragraph A above, or until a Mayor is elected pursuant to paragraph B above, the City Administrator shall serve as Temporary Mayor. The City Administrator shall possess all the powers of the Mayor as provided in this Charter, except the power to remove Mayoral appointees and the power of veto. Appointees of the Mayor may not be removed by the City Administrator serving in the capacity of Temporary Mayor without the concurrence of the City Council.

2-412 RECALL ELECTIONS

Any elected official may be recalled from office by the electors of his or her electoral district in the manner provided by state law. A vacancy created by such recall shall be filled in the manner prescribed by this Charter and by state law.

3-101 CITY COUNCIL

The legislative power of the City is vested in a City Council. The Council has the powers and duties provided by law or this Charter.

3-102 TERM OF COUNCIL OFFICE

The term of members of the City Council elected under this Charter shall be four (4) years commencing at 12 o'clock noon on the Monday following the regular Council general election. This provision shall take effect with the Council that is elected by the general election to be held in 1989.

adopted 11-8-88

3-103 ORGANIZATION OF CITY COUNCIL

- A. Within thirty (30) days of taking office, the City Council shall elect from its members a presiding officer who shall be known as the President of the Council. The President shall be elected to a one (1) year term. The City Council may elect such other officers and appoint such committees and sub-committees as it deems necessary.
- B. The City Council shall adopt rules for the conduct of its business in accordance with Section 1-801 of this Charter. Until new rules are adopted, the rules of the previous Council shall apply.

3-201 MEETINGS

- A. The City Council shall meet at the usual place for Council meetings at 7:30 p.m., Eastern Standard Time, on the first Monday following the election of its members.
- B. The City Clerk shall preside until the Council has chosen a President. Thereafter the Council shall meet at least two (2) times per month at such times and places as shall be stated in the Council rules. All meetings called for the purpose of discussing City business and all gatherings of three (3) or more Council members at which City business is discussed shall be public and public notice shall be given in the manner provided by statute for meetings of public bodies.

3-202 SPECIAL MEETINGS

The Mayor or any two (2) members of the City Council may call a special meeting of the City Council upon twenty-four (24) hours notice to each Council member and the public stating the purpose of the meeting.

3-203 QUORUM

A majority of the members elect of the City Council shall constitute a quorum, but a smaller number may convene and adjourn from time to time. The City Council may compel attendance of absent members in the manner and subject to the penalties provided by ordinance.

3-204 VOTING

- A. Except as otherwise provided by this Charter no action of the City Council shall be effective unless a majority of the members elect of the City Council vote in favor of the action.
- B. Every City Council member present shall vote on all questions other than those involving a conflict of interest.
- C. The affirmative and negative votes shall be taken and recorded on all ordinances and whenever requested by one (1) or more members of the Council.
- D. An abstention shall be considered a vote providing the Councilperson states a reason therefor.

3-205 INVESTIGATION

The City Council may make investigations into the affairs of the City and the conduct of any City agency pursuant to Section 3-206.

3-206 INVESTIGATIVE POWERS

- A. The City Council may subpoena witnesses, administer oaths, take testimony and require the production of evidence in any matter pending before it or any of its committees.
- B. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the City Council shall apply to the appropriate court.

3-207 PROHIBITION OF INTERFERENCE IN ADMINISTRATION

Except for purposes of inquiries or investigations in accordance with Section 3-206, the City Council and its members shall deal with City officers and employees who are subject to the direction and supervision of the Mayor solely through the Mayor, and neither the City Council nor its members shall give orders to any such officer or employee, either publicly or privately.

3-301 INTRODUCTION OF ORDINANCE

- A. Every proposed ordinance shall be introduced in writing.
- B. No ordinance may contain more than one (1) subject, and the ordinance's title must clearly express this subject.
- C. The enacting clause shall be, "It is hereby ordained by the People of the City of Flint . . ."
- D. Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance, sections, or subsections to be repealed or amended, and shall clearly indicate matter to be omitted and new matter to be added.

3-302 PUBLICATION OF SUMMARY BEFORE PUBLIC HEARING

- A. Upon introduction of any ordinance, the City Clerk shall: (1) distribute a copy to each City Council member and to the Mayor; (2) file a reasonable number of copies in the office of the City Clerk and such other public places as the City Council may designate; and (3) publish the title and an abstract of the proposed ordinance including effective date in a daily newspaper of general circulation in the City together with a notice setting out the time and place for a public hearing thereon and for its consideration by the City Council.
- B. The public hearing may not be held sooner than five (5) days after the publication. The public hearing may be held separately or with a regular or special City Council meeting and may be convened from time to time.
- C. All interested persons shall have an opportunity to be heard.

3-303 PUBLICATION OF ORDINANCES AND RESOLUTION AFTER ENACTMENT

- A. The City Clerk shall keep a printed journal in the English language of every session of the Council.
- B. The City Clerk shall authenticate by signature and record all ordinances and resolution in a properly indexed book kept for the purpose.
- C. After enactment of any ordinance or resolution having the effect of law, the City Clerk shall have it published in a newspaper of general circulation in the City together with a notice of its adoption.
- D. Every ordinance, resolution having the effect of law, and amendment to this Charter, shall be printed promptly after enactment and shall be distributed or sold to the public at reasonable prices to be fixed by the City Council.

3-304 VETO

- A. Every ordinance and resolution passed by the City Council is subject to review by the Mayor unless otherwise stated in this Charter.
- B. No ordinance or resolution of the City Council subject to review by the Mayor shall have any force or effect if:
 - 1. the Mayor or person acting in his or her stead prepares a notice in writing suspending the operation of such ordinance or resolution which sets forth reasons therefor, and
 - 2. such notice is filed in the office of the City Clerk within 168 hours after the delivery of the ordinance or resolution to the office of the Mayor by the Clerk, or an agent of the Clerk.
- C. If the ordinance is an emergency ordinance, the Mayor will have only twenty-four (24) hours to exercise the veto after receipt of written notice of adoption.
- D. In each case where such notice of veto is filed, such ordinance or resolution shall not become law without further affirmative vote of two-thirds (2/3) of the members elect on the City Council at a meeting held within two (2) weeks of the notice of veto.

If two-thirds (2/3) of the members elect vote in favor of overriding the veto, the ordinance or resolution shall be adopted without further review by the Mayor.

3-305 EFFECTIVE DATE OF ORDINANCE

- A. No ordinance shall be effective until published as provided in Section 3-303 of this Charter.
- B. Every ordinance which has been published shall become effective on the thirtieth (30th) day after enactment or at any later date specified.
- C. The City Council may, by an affirmative vote of two-thirds (2/3) of its members elect, provide that any ordinance take immediate effect after publication.

3-306 EMERGENCY ORDINANCES

- A. No emergency ordinance shall be effective until published as provided in Section 3-303 of this Charter.
- B. Emergency ordinances may be enacted to meet a public emergency affecting life, health, property or the public peace. However, an emergency ordinance may not levy taxes; grant, renew or extend a franchise; or regulate the rate charged by any public utility for its services.
- C. An emergency ordinance shall be introduced in the form and manner required for ordinances generally, except that it shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.
- D. An emergency ordinance may be adopted at the meeting at which it is introduced and, if passed by an affirmative vote of two-thirds (2/3) of the members elect, may take immediate effect after publication.
- E. Every emergency ordinance is automatically repealed as of the sixty-first (61st) day after its enactment, unless reenacted as an emergency ordinance.

3-307 CITY ACTION REQUIRING AN ORDINANCE

- A. All acts required to be done by ordinance by state law, or by specific provisions of this Charter shall be done by ordinance.
- B. Other acts of the City which shall be enacted by ordinance include:
 - 1. Providing a penalty or establishing a rule or regulation for violation of which a penalty is imposed;
 - 2. Providing for the laying and collection of rents, tolls, excises and taxes, except as otherwise provided in this Charter concerning property taxes levied by the budget; or
 - 3. Amending or repealing ordinances previously adopted.
- C. Other acts may be done either by ordinance or resolution.

3-308 CODIFICATION OF ORDINANCES

- A. Within three (3) years after the effective date of this Charter and at least every ten (10) years thereafter, the City shall provide for the preparation of a general codification of all City ordinances and resolutions having the effect of law.
- B. The general codification shall be enacted by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Michigan Constitution and other laws of Michigan, and other rules and regulations as the City may specify.
- C. This compilation shall be known as the Flint City Code. Copies of the Code shall be (1) furnished to City officers, (2) placed in libraries and

- C. Except as otherwise provided by this Charter or ordinance, the rights, duties, powers, immunities and procedures established by state law shall apply in the collection and enforcement of City property taxes.

7-205 TAX BECOMES LIEN

City property taxes shall become a debt payable by the persons liable for them on the tax day as provided by state law. The debt shall become payable and a lien upon the property on July 1 next following, or as provided by state law.

7-206 STATE, COUNTY AND SCHOOL TAXES

State, county and school taxes shall be levied, collected and returned, as provided by ordinance, in conformity with state law.

7-207 INSTALLMENT PAYMENT OF TAXES

- A. One-third (1/3) of all property taxes for City and school purposes shall become due and payable upon the first (1st) day of July in the year assessed and may be paid during the month of July without penalty or interest; thereafter such installment of taxes, while unpaid, shall be deemed delinquent and shall bear interest at the rate of one-half of one percent (1/2%) per month or fraction thereof.
- B. One-third (1/3) of such City and school taxes shall become due and payable on the first (1st) day of October in the year assessed and may be paid during the month of October without penalty or interest; thereafter such installment of taxes, while unpaid, shall be deemed delinquent and shall bear interest at the rate of one-half of one percent (1/2%) per month or fraction thereof.
- C. One-third (1/3) of such City and school taxes shall become due and payable on the first (1st) day of February in the year following the year of assessment and may be paid during the month of February without penalty or interest; thereafter such installment of taxes, while unpaid, shall be deemed delinquent.
- D. On the first (1st) day of March next after the same were assessed a penalty of four percent (4%) shall be added to all unpaid City taxes and a collection fee of four percent (4%) shall be added to all unpaid school taxes; and thereafter interest at the rate of one-half of one percent (1/2%) per month or fraction thereof shall be added to and charged on all such overdue City and school taxes until paid.

7-301 GENERAL BORROWING POWER

- A. The City may borrow money for any purpose within the scope of its powers, may issue bonds or other evidence of indebtedness therefor, and may, when permitted by state law, pledge the full faith and credit of the City for the payment of those obligations.
- B. The enumeration of specific kinds of bonds or other borrowing in this Chapter shall not be deemed to exclude other kinds of bonds or other borrowing permitted by state law.

7-302 LIMITATIONS ON BORROWING

The net bonded indebtedness for general obligations of the City shall not exceed seven percent (7%) of the assessed valuation. No obligation shall be sold to obtain funds for any purpose or purposes other than that for which those

obligations were specifically authorized.

7-303 USE OF BORROWED FUNDS

- A. Each obligation shall contain on its face a statement of the purpose for which it is issued.
- B. All proceeds from the issue of an obligation shall be expended for the purpose for which the obligation was issued.
- C. Any remaining unexpended and unencumbered proceeds may be authorized by the City for use in any manner permitted by state law.

7-304 EXECUTION OF OBLIGATIONS

All obligations issued by the City shall be executed with the facsimile signature of the Mayor and signed by the City Clerk and shall bear the Seal of the City. Interest coupons shall be executed with the facsimile signatures of the Mayor and the City Clerk.

7-305 BONDS TO FINANCE LOCAL PUBLIC IMPROVEMENTS

- A. The City may borrow money and issue bonds in anticipation of the payment of special assessments or any combination of special assessments levied under Sections 7-401 and 7-402 of this Charter.
- B. Special assessment bonds shall be an obligation of the special assessment district or districts and may be both an obligation of the special assessment district or districts and a general obligation of the City.
- C. The City may also borrow money and issue bonds under Section 7-301 for its share of the cost of any local public improvement or, where the cost of that improvement is to be defrayed in part from the payment of special assessments and in part from other City revenues, for the entire cost of that improvement.

7-306 EMERGENCY BONDS

In case of fire, flood, or other calamity, the City may, subject to state law, authorize the issuance of emergency bonds which shall be general obligations of the City for the relief of residents of the City and for the preservation of City property.

7-307 BUDGET BONDS

Any capital improvement items contained in the budget may be financed by the issuance of bonds as a part of the budget system. However, the amount of those bonds together with the City property taxes levied for the same year may not exceed the limit permitted by law.

7-308 TRANSPORTATION BONDS

- A. The City may, by ordinance, provide for the establishment, maintenance and operation of a public transportation system above, on, or below the surface of the ground, or in any combination thereof, utilizing technology known or to be developed. A transportation system, once established, may be operated within the City and to a distance outside the City as provided by state law.
- B. The City may borrow money for public transportation and rapid transit facilities and may incur obligations and issue bonds therefor to the maximum extent permitted by state law.

7-309 SEWER BONDS

- A. The City may, by ordinance: (1) provide for the installation and connection of sewers and water works on and to property within the City; (2) assess the costs therefor to the several properties and make the same a lien thereon; (3) borrow money and issue bonds in anticipation of the collection of such special assessment.
- B. The City may, by ordinance, provide for the acquisition, establishment, operation, extension and maintenance of a sewage disposal system, sewers and plants, either within or without the corporate limits of the City, as a utility as prescribed by state law.

7-401 POWER TO ASSESS

The City may, by ordinance, determine that the whole or any part of the expense of any local public improvement or repairs shall be defrayed by special assessment upon the property specifically benefited as provided for by law. However, no special assessment may be made after on-site construction has begun.

7-402 PROCEDURE ORDINANCE

- A. The complete special assessment procedure to be used, including the preparation of plans and specifications; estimation of costs; the preparation, hearing and correction of the special assessment roll; the collection of special assessments; the assessment of single lots or parcels; and any other matters concerning the making of improvements by the special assessment method, shall be provided by ordinance.
- B. The ordinance shall authorize additional assessments, if the prior assessment proves insufficient to pay for the improvement or is determined to be invalid in whole or in part, and shall also provide for the disposition of excess assessments.

7-403 SPECIAL ASSESSMENT LIEN

From the date of confirmation of any roll levying any special assessment, the full amount of the assessment and all interest thereon shall constitute a lien on the property subject thereto. In case of delinquency the special assessment and all interest thereon shall be collected as provided by ordinance.

7-404 CONTEST OF ASSESSMENTS

- A. Any person owning property specially assessed shall have sixty (60) days from the mailing of a notice of confirmation of the special assessment roll to notify the City Clerk in writing of any claimed illegality in the special assessment process. The City shall presume that any person who neglects or refuses to assert a claim within the sixty (60) day period has withheld his or her claim for the purpose of unjustly obtaining a special benefit to the property to the detriment of the general taxpayers of the City.
- B. If the Chief Legal Officer submits a written opinion finding the special assessment roll illegal, in whole or in part, the City Council may revoke its confirmation, correct the illegality, if possible, and reconfirm it. No property shall be assessed more than was imposed upon the original confirmation without further notice and hearing.

8-101 REGULATORY POWER

The City may, as provided by law, exercise its police power over any trade, occupation, amusement, business or other activity within the City to regulate, provide, or prohibit except as authorized by permit, license, or franchise.

8-102 APPELLATE REVIEW

The City shall provide, by ordinance, for the review of administrative decisions of City agencies which are not within the appellate jurisdiction created by other sections of this Charter.

8-201 LIMITATIONS ON A FRANCHISE

- A. An irrevocable franchise, and all renewals, amendments and extensions of it, may be granted only by ordinance.
- B. The City may approve such an ordinance only after a public hearing has been held on it and after the grantee named in it has filed with the City Clerk its unconditional acceptance of all the terms of the franchise.
- C. The ordinance may not take effect unless it has been approved by the voters of the City, where state law so requires, or, unless it has been approved by a two-thirds (2/3) majority of City Council members elect, where approval of the voters is not required by state law.
- D. When approval of the voters of the City is required, the ordinance as approved by the City shall be published in a daily newspaper of general circulation in the City not less than thirty (30) days before the election at which it is submitted to the voters. The City may not call a special election unless the expense of holding the election has first been paid to the City Treasurer by the grantee.
- E. A franchise for the use of the streets or other public places of the City or for the transaction of a local business may not be sold or transferred in any manner nor may a party other than the grantee use the franchise, unless the City consents by ordinance.

8-202 STANDARD PROVISIONS OF A PUBLIC UTILITY FRANCHISE

- A. A public utility franchise shall include provisions for fixing and periodically readjusting rates and charges at the direction of the City and for requiring the holder to supply necessary information and access to records and property.
- B. The City may, with respect to any public utility franchise granted, whether or not so provided in the granting ordinance:
 - 1. Repeal the franchise for (a) violation of or failure to comply with any of its provisions, (b) misuse or non-use, or (c) failure to comply with any regulation imposed under authority of this Charter;
 - 2. Require proper and adequate extension and maintenance of plant facilities at the highest practicable standard of efficiency;
 - 3. Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
 - 4. Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period of the franchise;
 - 5. Impose other regulations determined by the City to be conducive to the health, safety, welfare, and convenience of the public; or
 - 6. Require the public utility to permit joint use of its property and equipment.

ment, located in the streets and public places of the City, by the City and other utilities, insofar as joint use may be reasonably practicable. In the absence of agreement, upon application by the public utility, provide for arbitration of the terms and conditions for joint use.

8-301 PURCHASE AND SUPPLIES

- A. The head of purchase and supplies shall be a member of the Classified Service and shall be appointed by the Mayor with the approval of the City Council. This person shall be responsible for the purchase and distribution of all supplies, materials, and equipment needed by the City.
- B. No purchase may be made by the City unless the chief finance officer advises that there is an unencumbered balance in the appropriation against which the purchase is to be charged to pay for the purchase.
- C. The City shall, by ordinance, establish procedures to protect the interests of the City and to assure fairness in procuring property and services. The ordinance shall require competitive bidding for purchases and contracts but there may be cases clearly defined in the ordinance, in which competitive bidding is not required. The ordinance shall define "lowest responsible bidder."
- D. The head of purchase and supplies shall be responsible for the sale, lease and transfer in the ordinary course of City operations all personal property of the City which is unsuitable for continued use.
- E. The City shall, by ordinance, establish procedures to protect the interests of the City and to assure fairness in disposing of personal property. The ordinance shall require competitive bidding for all sales, leases and transfers but there may be cases, clearly defined in the ordinance, in which competitive bidding is not required. The ordinance shall define the dispositions of public property which are not in the ordinary course of City operations and shall provide a procedure for such dispositions.
- F. The provisions of this section do not apply to the Board of Hospital Managers.

9-101 EFFECTIVE DATE OF CHARTER

Except as otherwise provided in this Article, this Charter shall become effective for all purposes on the date that the first Mayor and City Council elected under this Charter take office. The sections on nomination and election of Mayor and Councilpersons shall become effective on January 1, 1975.

9-102 FIRST ELECTION FOR MAYOR

The first primary and general election for Mayor shall be in 1975 at the time set by statute for City primaries and general elections. However, if no election for the Flint City Council is held in 1975, the first primary and general election for the office of the Mayor shall be held at the same time as the primary and general election for the Council.

9-201 ADJUSTMENT IN BUDGET

The first Mayor and City Council elected under this Charter shall have the authority to make any necessary adjustments to the budget then in force

9-202 COMPENSATION OF OFFICERS

Any provision of this Charter or ordinance to the contrary notwithstanding, the Elective Officers' Compensation Commission shall hold its first meeting in 1975 no later than March 3 of that year and shall consider the compensation of the Mayor and Councilpersons under this Charter in addition to any matters properly before the Commission.

9-203 COMPENSATION OF APPOINTED OFFICIALS

The initial compensation of all appointed officials shall continue as it exists on the day prior to the effective date of this Charter. Any change in compensation shall be made in the manner determined by law.

9-204 PREVIOUS CHARTER RETIREMENT SYSTEM

The provisions, benefits and terms of the retirement system as provided for firemen and policemen in the City Charter as adopted by the people on December 2, 1929, and amendments adopted November 5, 1946, and April 7, 1947, shall remain in full force and effect until the benefits accruing thereunder have all been satisfied.

9-205 EXISTING CITY LEGISLATION AND RULES

All ordinances and resolutions of the City and all rules and regulations made by any officer or agency of the City which are not inconsistent with this Charter shall remain in effect until changed by action taken under this Charter.

9-301 STATUS OF OFFICERS UNDER OLD CHARTER

All persons holding appointive office shall continue in office or equivalent office until removed in accordance with law or the provisions of this Charter.

9-302 SUCCESSION TO RIGHTS AND PROPERTY

The City of Flint under this Charter shall succeed to all of the privileges, titles, easements, rights of way, causes of action, duties, commitments, powers, obligations and be the complete successor to the City of Flint under the previous Charter. The City shall be vested with all property, monies, contracts, credits, effects, records, files, books and papers belonging to it under and by virtue of its previous Charter. No rights, liability contract, lease, or franchise, either in favor of or against the City, and no suit or prosecution of any character shall be affected in any manner by any change resulting from the adoption of this Charter; but the same shall stand or proceed, as if no change had been made. All debts and liabilities of the City shall continue to be its debts and liabilities; and all debts owing to it and fines, penalties, interest or fees imposed and existing at the time of such change shall be collected by the City.

9-303 TRANSITION OF STATUS OF EMPLOYEES

- A. The transition of the status of the employees from the previous Charter to this Charter shall be controlled by the following conditions:
 - 1. The Civil Service Commission as it existed prior to the date of adoption of this Charter shall be abolished after the effective date of this Charter.
 - 2. The Civil Service Commission created under this Charter is limited to an adjudicatory role rather than a policy making role.
 - 3. The policy making function has been placed by this Charter with the

City of Flint
Water Supply Option Analysis

Option	Interim Source	Primary Source	Back-Up Source	Cost NPV – 20yr.	Public * Health	Cost	Risk/ ** Reliability	Time (Primary Source)
1	GCDC	Flint WTP w/ WWTP residual discharge	Raw Water Reservoir; Distribution Storage	\$323M	3	4	3	3
2	GCDC	GCDC	GCDC	\$311M	2	3	2	2
3A;3B	GCDC	A.Flint WTP w/ on-site residual processing B. Flint WTP w/ WWTP residual discharge of residuals	GCDC	\$313M \$303M	3	2	2	3
4	GLWA	GLWA	GLWA (GCDC)	\$269M	1	1	1	1
5	GLWA	GLWA (until July, 2018) then GCDC	GCDC	\$335M	2	6	1	2
6A;6B	GLWA	A.Flint WTP with on-site residual processing B.Flint WTP with WWTP discharge of residuals	GLWA	\$364M \$354M	2	7	1	3
7A;7B	GLWA	A.Flint WTP with on-site residual processing B.Flint WTP with WWTP discharge of residuals	GCDC	\$337M \$327M	2	5	1	3
8	GLWA	GCDC	Flint WTP	\$456M	3	8	1	2
9	GLWA	GLWA	Flint WTP	\$482M	1	9	1	1

*reflects number of required water source changes; not indicative of the quality of any individual water source

** Indication of reliable capacity available for Flint

ATTACHMENT #1



Kate Fields <kfields@cityofflint.com>

Suggestions from Kate for Public Comment re Water sources

1 message

Kate Fields <kfields@cityofflint.com>

Fri, Apr 21, 2017 at 12:37 PM

To: "Baird, Richard (GOV)" <bairdr@michigan.gov>, j.young109@comcast.net, Kerry Nelson <knelson@cityofflint.com>, Scott Kincaid <skincaid@cityofflint.com>, Inez Brown <ibrown@cityofflint.com>, Sylvester Jones <sjones@cityofflint.com>
Bcc: rfonger1@mlive.com

Rich and John,

It's apparent from what happened last evening that the public wants ample opportunity to weigh in on a decision that is going to affect them for the next 30+ years (forever if our water treatment system is dismantled). AND they are angry they have no real information.

My suggestions are:

- increase the public comment period to two months
- set up a web site that provides for public comment and put (downloadable) documents on it that people can read; the actual contracts, commitments, terms, etc. and THEN your analysis (in a format that people can understand). Also include the dates, times and locations of future Town Hall Meetings and Public Hearings. Widely publicize the web site and how to access. At the end provide at least a summary document with what people want and what they've said.
- Set up an official Public Hearing date, at City Hall where residents can have input

The reason you need two months is it will take (I'm assuming) at least a few weeks to get the web site and data collection technology set up, then time to publicize it.

People are going to be streaming into the next council meeting demanding information -- and we have none to share with them (at this point in time). We're already getting calls and people stopping us wherever we go asking for details and all we can tell them is we weren't invited to the meetings, nor have we (yet) been given any information ourselves--so we have no information to give them.

Please let me know if my requests can be accommodated.

Thanks,

Kate Fields
4th Ward City Councilwoman
810-237-6888 X 3164
kfields@cityofflint.com

**CITY OF FLINT
DRINKING WATER SOURCE SELECTION
PUBLIC PARTICIPATION PLAN
March 27, 2017 Revision**

Background

This Public Participation Plan has been prepared in response to the United States Environmental Protection Agency's (EPA's) November 17, 2016, First Amendment to the Emergency Administrative Order (Amended Order). Under the Amended Order, *Paragraph 60* required a submittal addressing a *New Source Treatment Plan ("NSTP" (60.b.iii)* by March 1, 2017. The Amended Order also required that, "The NSTP shall be developed in consultation with appropriate experts and the public through adequate advanced notice and opportunity for comment." This Public Participation Plan will also address the additional requirements contained in the February 21, 2017, EPA letter to Mayor Weaver; specifically:

- 1) *a description of how the public has been or will be engaged in the ongoing alternatives analysis process;*
- 2) *a description of how the public has been or will be engaged in the ultimate selection of the City's new water source(s);*
- 3) *a description of how the public has been or will be involved in any DWSRF-related public participation opportunities; and*
- 4) *the City's plan and timeline for vetting the relevant economic, social, political, and public health issues associated with the alternatives evaluation.*

In a letter dated November 30, 2016, City of Flint Mayor Karen W. Weaver informed the EPA that Flint's long-term, primary source of drinking water will be the Flint Water Treatment Plant. The back-up source of supply would be an on-site raw water reservoir supplemented with an emergency finished water interconnection with Genesee County.

The City and its federal, state and local partners have been actively engaged in communicating with the public and seeking their input throughout this Flint water event. These public engagement activities have included numerous community conversations, mailings to organizations and individual residents, press releases, publication distribution, and presentations at the Governor's Flint Water Interagency Coordinating Committee meetings and Flint City Council meetings.

Regarding *DWSRF-related public participation opportunities*, a public hearing was held on June 13, 2016, at 6 p.m., in the City of Flint Council Chambers. Rowe Professional Services Company presented the project plan including costs and alternatives related to water main improvements and service line replacements to the Flint City Council and members of the public in attendance. At the conclusion of the presentation, the hearing was opened to the public for questions and numerous residents made remarks regarding the project plan and presentation. A resolution of plan adoption was passed

**CITY OF FLINT
DRINKING WATER SOURCE SELECTION
PUBLIC PARTICIPATION PLAN
March 27, 2017 Revision
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by the council on June 27, 2016 and by the Receivership Transition Advisory Board on June 29, 2016. Because meter replacement procedures and water treatment plant improvements were not discussed at the public hearing there is a requirement for those items to be included in a yet to be scheduled public hearing. By law a public hearing advertisement needs to be published 30 days prior to a hearing. However, the City will wait until the alternatives analysis is complete and the drinking water source selection is made before scheduling that hearing.

Public outreach especially pertinent to this NSTP submittal included a direct mailing from the City to residents on January 3, 2017, regarding the current drinking water quality. Among other things, this mailing informed residents that the City was consulting with experts to develop standard operating procedures, corrosion control studies and performance testing for the Flint Water Treatment Plant in accordance with the March 1, 2017, NSTP submittal requirements. Further, on January 11, 2017, the City hosted a Town Hall meeting to share the latest water quality data, future plans for treating water at the Flint Water Treatment Plant, and receive input from residents.

Subsequent to the January 11, 2017, Town Hall meeting, the City and its consultants began evaluating water source alternatives as required by the Drinking Water Revolving Fund (DWRP) process. Since more alternatives are now being evaluated than previously presented to the public, additional public input will be sought as indicated below.

Timeline

Month of March 2017 – The City's consultants continue to gather input from potential water source providers regarding costs and technical feasibility and perform economic analyses on the alternatives.

April 5, 2017 – Meet with Flint City Council to discuss the Public Participation Plan for drinking water source selection.

Week of April 17, 2017 - Initiate the Public Participation Plan to obtain feedback on the recommended water source solution, alternatives evaluated, and the relevant economic, social, political, and public health issues associated with the alternatives evaluated. Initiate cost of service/rate design study based on recommended water source options and projected capital and operating plans associated with those options.

**CITY OF FLINT
DRINKING WATER SOURCE SELECTION
PUBLIC PARTICIPATION PLAN
March 27, 2017 Revision
Page 3**

April 18, 2017 – Press conference and coordinating press release to announce that Flint City leaders have received the alternatives evaluation and recommendations on the drinking water source solutions from their consultants. At the presser, the mayor/city officials/consultants will go through the primary alternatives considered and present the pros and cons of each alternative considering the related economic, social, and public health issues. The mayor would encourage residents to express their opinions regarding the alternatives via the upcoming Town Hall meeting, E-mail comment box, or in writing.

April 20, 2017 - Town Hall meeting for residents to learn about the water source alternatives evaluated and to provide input. City leaders will go through the primary alternatives considered and present the pros and cons of each alternative considering the related economic, social, and public health issues. Residents will be provided the opportunity to express their opinions and have their questions answered. Subsequent to the Town Hall meeting residents can continue to provide input via E-mail or in writing through April 30, 2017.

May 3, 2017 – City leadership meets with the Flint City Council to discuss the results of the public participation and to recommend a specific drinking water source.

May 4, 2017 – Press conference and coordinating press release to announce the City's recommended drinking water source.